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# Contents

**Federal Register**

Vol. 81, No. 129

Wednesday, July 6, 2016

### Agency for International Development

**NOTICES**

- Meetings:
  - Advisory Committee on Voluntary Foreign Aid, 43986

### Agriculture Department

*See* Farm Service Agency

*See* Rural Business-Cooperative Service

*See* Rural Housing Service

*See* Rural Utilities Service

**NOTICES**

- Requests for Nominations:
  - Council for Native American Farming and Ranching; Re-Establishment, 43986–43987

### Air Force Department

**NOTICES**

- Exclusive Patent Licenses, 44008–44009

### Antitrust Division

**NOTICES**

- Membership Changes under the National Cooperative Research and Production Act:
  - American Society of Mechanical Engineers, 44048–44049
  - IMS Global Learning Consortium, Inc., 44048
  - National Advanced Mobility Consortium, Formerly Robotics Technology Consortium, Inc., 44045–44047
  - National Armaments Consortium, 44044–44045
  - National Center for Manufacturing Sciences, Inc., 44047–44048
  - National Spectrum Consortium, 44047
  - Petroleum Environmental Research Forum Project No. 2013–07, Stream Speciation Update, 44045
  - Pistoia Alliance, Inc., 44048

### Army Department

**NOTICES**

- Meetings:
  - Army Science Board, 44009–44010

### Centers for Disease Control and Prevention

**NOTICES**

- Agency Information Collection Activities; Proposals, Submissions, and Approvals, 44024–44025
- Final Publication:
  - National Institute for Occupational Safety and Health Quality Assurance Review of B Readers' Classifications Submitted in the Department of Labor Black Lung Benefits Program, 44026–44027
- Meetings:
  - Advisory Committee to the Director; State, Tribal, Local and Territorial Subcommittee, 44025–44026
  - Board of Scientific Counselors, National Center for Injury Prevention and Control; Teleconference, 44026

### Coast Guard

**RULES**

- Quarterly Listings:
  - Safety Zones, Security Zones, Special Local Regulations, Drawbridge Operation Regulations and Regulated Navigation Areas, 43947–43950
- Shipping; Technical, Organizational, and Conforming Amendments, 43950–43955

**NOTICES**

- Agency Information Collection Activities; Proposals, Submissions, and Approvals, 44035–44037

### Commerce Department

*See* International Trade Administration

*See* National Oceanic and Atmospheric Administration

### Defense Department

*See* Air Force Department

*See* Army Department

**NOTICES**

- Agency Information Collection Activities; Proposals, Submissions, and Approvals:
  - Notification of Ownership Changes, 44023–44024
- Meetings:
  - Federal Advisory Committee; Defense Business Board, 44010

### Drug Enforcement Administration

**NOTICES**

- Decisions and Orders:
  - Prianglam Brooks, N.P., 44049–44050

### Energy Department

*See* Federal Energy Regulatory Commission

**PROPOSED RULES**

- Acquisition Regulations:
  - Contractor Business Systems: Definition and Administration, 43971–43972

**NOTICES**

- Agency Information Collection Activities; Proposals, Submissions, and Approvals, 44010–44011

### Environmental Protection Agency

**RULES**

- Standards of Performance for New Stationary Sources; CFR Correction, 43950

**NOTICES**

- Agency Information Collection Activities; Proposals, Submissions, and Approvals:
  - Performance Evaluation Studies on Wastewater Laboratories, Renewal, 44017–44018
- Meetings:
  - Great Lakes Advisory Board and Science and Information Subcommittee, 44019–44020
- Proposed Consent Decrees under Clean Air Act, Citizen Suit:
  - Appleton Coated, LLC (Appleton or Plaintiff), 44018–44019
- Registration Reviews:
  - Atrazine, Simazine, and Propazine; Draft Ecological Risk Assessments; Extension of Comment Period, 44018

### Farm Credit Administration

**NOTICES**

- Meetings; Sunshine Act, 44020

### Farm Service Agency

**RULES**

- Community Facility Loans, 43927–43937

### Federal Aviation Administration

**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
  Flight Operational Quality Assurance Program, 44087–44088
Meetings:
  Nineteenth SC–223 Plenary Meeting Calling; Internet Protocol Suit, and AeroMACS, 44086–44087
  Special Committee 216 Aeronautical Systems Security, 44084–44085
  Special Committee 224 Airport Security Access Control Systems, 44087
  Special Committee 236 Standards for Wireless Avionics Intra-Communication System Within 4200–4400 MHz, 44085
Waivers of Aeronautical Land-Use Assurances, 44085–44086

### Federal Communications Commission

**RULES**
Declaratory Ruling about Reimbursement of Pre-Auction Expenses, 43956
Television Broadcasting Services:
  Tolleson, AZ, 43955–43956

### Federal Deposit Insurance Corporation

**NOTICES**
Receiverships; Terminations:
  Williamsburg First National Bank, Kingstree, SC, 44020

### Federal Energy Regulatory Commission

**RULES**
Civil Monetary Penalty Inflation Adjustments, 43937–43941
**NOTICES**
Combined Filings, 44011–44017
Filings:
  North American Electric Reliability Corp.; Reliability Standard for Transmission System Planned Performance for Geomagnetic Disturbance Events, 44014
Section 206 of the Federal Power Act:
  Startrans, IO, LLC, 44011

### Federal Highway Administration

**NOTICES**
Final Federal Agency Actions:
  Interstate 66 Outside the Beltway Project, Fairfax and Prince William Counties, VA, 44088

### Federal Motor Carrier Safety Administration

**RULES**
Driving of Commercial Motor Vehicles:
  Use of Seat Belts; Correction, 43957

### Federal Reserve System

**NOTICES**
Changes in Bank Control:
  Acquisitions of Shares of a Bank or Bank Holding Company, 44021
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 44020

### Federal Trade Commission

**NOTICES**
Consent Agreements:
  HeidelbergCement AG and Italcementi S.p.A.; Analysis to Aid Public Comment, 44021–44023

### Fiscal Service

**NOTICES**
Prompt Payment Interest Rate; Contract Disputes Act, 44088–44089

### Fish and Wildlife Service

**PROPOSED RULES**
Endangered and Threatened Wildlife and Plants:
  12-Month Findings on Petitions to List the Eagle Lake Rainbow Trout and the Ichetucknee Siltsnail as Endangered or Threatened, 43972–43979
**NOTICES**
Endangered and Threatened Wildlife and Plants:
  Greater Sage-Grouse Umbrella Candidate Conservation Agreement with Assurances for Wyoming Ranch Management; Enhancement of Survival Permit Applications, 44038–44039
Environmental Assessments; Availability, etc.:
  Kilauea Point National Wildlife Refuge, Kaua'i County, HI, 44037–44038

### Foreign Claims Settlement Commission

**NOTICES**
Meetings; Sunshine Act, 44050–44051

### General Services Administration

**RULES**
Acquisition Regulations:
  Technical Amendments, 43956–43957
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
  Notification of Ownership Changes, 44023–44024

### Health and Human Services Department

*See* Centers for Disease Control and Prevention
*See* Indian Health Service
*See* National Institutes of Health
**NOTICES**
Opportunity to Co-Sponsor Office for Human Research Protections Educational Workshops, 44027–44028
Opportunity to Co-Sponsor Office for Human Research Protections Research Community Forums, 44028–44030

### Homeland Security Department

*See* Coast Guard
*See* U.S. Customs and Border Protection

### Housing and Urban Development Department

**PROPOSED RULES**
Housing Choice Voucher Program:
  New Administrative Fee Formula, 44100–44125

### Indian Affairs Bureau

**NOTICES**
Indian Gaming:
  Oregon; Approval of Amendment to Tribal-State Class III Gaming Compact, 44039–44040

### Indian Health Service

**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
  Application for Participation in the IHS Scholarship Program, 44030–44032

### Interior Department

*See* Fish and Wildlife Service

*See* Indian Affairs Bureau
*See* Land Management Bureau
*See* National Indian Gaming Commission
*See* Ocean Energy Management Bureau
*See* Reclamation Bureau
*See* Surface Mining Reclamation and Enforcement Office

## Internal Revenue Service

**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 44089–44094
Publication of Nonconventional Source Production Credit Reference Price for Calendar Year 2015, 44091

## International Trade Administration

**NOTICES**
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
  Stilbenic Optical Brightening Agents from Taiwan, 43991–43992
Meetings:
  United States Manufacturing Council, 43992–43993

## Justice Department

*See* Antitrust Division
*See* Drug Enforcement Administration
*See* Foreign Claims Settlement Commission
**RULES**
Department of Justice Debt Collection Regulations, 43942–43947
**NOTICES**
Proposed Consent Decrees under the Clean Air Act, 44051–44052

## Land Management Bureau

**NOTICES**
Meetings:
  Northeastern Great Basin Resource Advisory Council, NV, 44040

## National Aeronautics and Space Administration

**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
  Notification of Ownership Changes, 44023–44024
Intents to Grant Partially Exclusive Licenses, 44052–44053

## National Archives and Records Administration

**NOTICES**
Records Schedules, 44053–44054

## National Indian Gaming Commission

**RULES**
Civil Penalty Inflation Adjustments, 43941–43942

## National Institutes of Health

**NOTICES**
Government-Owned Inventions; Availability for Licensing, 44032, 44034
Meetings:
  Center for Scientific Review, 44033
  National Institute of Allergy and Infectious Diseases, 44032–44033
  National Institute of Neurological Disorders and Stroke, 44035
  National Institute on Aging, 44034–44035
  National Institute on Drug Abuse, 44034–44035
Organizational Changes:
  National Center for Advancing Translational Sciences, 44033

## National Oceanic and Atmospheric Administration

**RULES**
Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery:
  Closure of the Mid-Atlantic Access Area to General Category Individual Fishing Quota Scallop Vessels, 43957–43958
**PROPOSED RULES**
Endangered and Threatened Species:
  Removal of Puget Sound/Georgia Basin Distinct Population Segment of Canary Rockfish from the Federal List of Threatened and Endangered Species; Designated Critical Habitat Removal; Yelloweye Rockfish DPS, Bocaccio DPS; Amendment, 43979–43985
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 44006–44007
Environmental Impact Statements; Availability, etc.:
  Deepwater Horizon Oil Spill; Restoration Planning to Provide and Enhance Recreational Use in Alabama, and to Conduct Scoping, 44007–44008
Takes of Marine Mammals Incidental to Specified Activities:
  San Francisco Ferry Terminal Expansion Project, South Basin Improvements Project, 43993–44005

## Nuclear Regulatory Commission

**PROPOSED RULES**
Prompt Remediation of Residual Radioactivity During Operation, 43959–43961
**NOTICES**
Standard Review Plans:
  Renewal of Specific Licenses and Certificates of Compliance for Dry Storage of Spent Nuclear Fuel, 44054–44055

## Ocean Energy Management Bureau

**NOTICES**
Mid-Atlantic Regional Ocean Action Plan, 44040–44042

## Personnel Management Office

**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
  Presidential Management Fellows Application, 44055–44056

## Postal Regulatory Commission

**NOTICES**
New Postal Products, 44056

## Postal Service

**PROPOSED RULES**
Address Quality Census Measurement and Assessment Process, 43965–43971
**NOTICES**
Meetings; Sunshine Act, 44056

## Presidential Documents

**PROCLAMATIONS**
Trade:
  World Trade Organization Declaration; Implementation of Expansion of Trade in Information Technology Products (Proc. 9466), 44127–44205

### Reclamation Bureau

**NOTICES**
Meetings:
- Glen Canyon Dam Adaptive Management Work Group, 44042–44043

### Rural Business-Cooperative Service

**RULES**
Community Facility Loans, 43927–43937

### Rural Housing Service

**RULES**
Community Facility Loans, 43927–43937

**NOTICES**
Funding Availability:
- Loans to Re-lenders under the Community Facility Loan Program, 43987–43991

### Rural Utilities Service

**RULES**
Community Facility Loans, 43927–43937

### Securities and Exchange Commission

**NOTICES**
- Applications:
  - Fidelity Commonwealth Trust, et al., 44063–44065
- Meetings; Sunshine Act, 44078–44079, 44083
- Self-Regulatory Organizations; Proposed Rule Changes:
  - Bats BYX Exchange, Inc., 44073–44075
  - Bats BZX Exchange, Inc., 44076–44078
  - Financial Industry Regulatory Authority, Inc., 44065–44073
  - NASDAQ PHLX, LLC, 44079–44083
  - NYSE Arca, Inc., 44056–44063

### State Department

**NOTICES**
Meetings:
- Advisory Committee for the Study of Eastern Europe and the Independent States of the Former Soviet Union, 44083–44084

### Surface Mining Reclamation and Enforcement Office

**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 44043–44044

### Surface Transportation Board

**NOTICES**
Discontinuance of Service Exemptions:
- CSX Transportation, Inc., Boone County, WV, 44084

### Transportation Department

*See* Federal Aviation Administration
*See* Federal Highway Administration
*See* Federal Motor Carrier Safety Administration

**NOTICES**
Orders:
- Application of Public Charters, Inc. for Commuter Authority, 44088

### Treasury Department

*See* Fiscal Service
*See* Internal Revenue Service

### U.S. Customs and Border Protection

**PROPOSED RULES**
Definition of Importer Security Filing Importer, 43961–43965

### Veterans Affairs Department

**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
- Beneficiary Travel Mileage Reimbursement Application Form, 44097–44098
- Civilian Health and Medical Program of the Department of Veterans Affairs Benefits; Application, Claim, Other Health Insurance and Potential Liability, 44096–44097
- Complaint of Employment Discrimination; Information for Pre-Complaint Processing, 44095
- Dependent's Educational Assistance Election Letter, 44095
- Request for Determination of Loan Guaranty Eligibility Unmarried Surviving Spouses, 44094
- State Cemetery Data Sheet and Cemetery Grant Document, 44097

---

### Separate Parts In This Issue

**Part II**

Housing and Urban Development Department, 44100–44125

**Part III**

Presidential Documents, 44127–44205

---

### Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

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## CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

**3 CFR**

**Proclamations:**

9466................................44129

**7 CFR**

1942 (4 documents) ........43927

**10 CFR**

**Proposed Rules:**

20....................................43959

**18 CFR**

250..................................43937
385..................................43937

**19 CFR**

**Proposed Rules:**

149..................................43961

**24 CFR**

**Proposed Rules:**

982..................................44100

**25 CFR**

575..................................43941

**28 CFR**

11....................................43942

**33 CFR**

100..................................43947
117..................................43947
147..................................43947
165..................................43947

**39 CFR**

**Proposed Rules:**

111..................................43965

**40 CFR**

60....................................43950

**46 CFR**

1......................................43950
10....................................43950
11....................................43950
12....................................43950
13....................................43950
15....................................43950

**47 CFR**

Ch. I................................43956
73....................................43955

**48 CFR**

538..................................43956
552..................................43956

**Proposed Rules:**

915..................................43971
934..................................43971
942..................................43971
944..................................43971
945..................................43971
952..................................43971

**49 CFR**

392..................................43957

**50 CFR**

648..................................43957

**Proposed Rules:**

17....................................43972
223..................................43979
224..................................43979

# Rules and Regulations

**Federal Register**
Vol. 81, No. 129
Wednesday, July 6, 2016

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## DEPARTMENT OF AGRICULTURE

## Rural Housing Service

## Rural Business-Cooperative Service

## Rural Utilities Service

## Farm Service Agency

## 7 CFR Part 1942

**RIN 0575–AD05**

## Community Facility Loans

**AGENCY:** Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, Farm Service Agency, USDA.

**ACTION:** Interim rule.

**SUMMARY:** The Rural Housing Service (RHS) is amending regulations on Community Facility Direct Loans to enable the Agency to make loans to eligible lenders who would then in turn re-loan those funds to applicants for projects that are eligible under the Community Facilities Direct Loan program.

**DATES:** *Effective date:* This interim rule is effective July 6, 2016.

*Comments due date:* Written comments on this rule must be received on or before September 6, 2016. The comment period for information collections under the Paperwork Reduction Act of 1995 continues through September 6, 2016.

**ADDRESSES:** You may submit comments to this rule by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions on *Regulations.gov* for submitting comments.
- *Mail:* Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue SW., Washington, DC 20250–0742.
- *Hand Delivery/Courier:* Submit written comments via Federal Express Mail or another mail courier service requiring a street address to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, 300 7th Street SW., 7th Floor, Suite 701, Washington, DC 20024.

All written comments will be available for public inspection during regular work hours at the 300 7th Street SW., address listed above.

**FOR FURTHER INFORMATION CONTACT:** Kristen Grifka, Rural Housing Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250–3225; telephone: (202) 720–1504. Email contact: *Kristen.Grifka@wdc.usda.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Executive Summary

### *A. Overview*

This rulemaking adds provisions to the Community Facility (CF) Direct Loan program that allow the Agency to make direct loans to eligible lending institutions (referred to as ''re-lenders'') who then will re-loan the funds to eligible applicants for eligible community facility projects. The rulemaking identifies the types of lending institutions that are eligible to become re-lenders as described in an annual Notice that the Agency will publish in the **Federal Register** to exercise this authority. The annual Notice will set out application procedures in more detail to supplement the regulation requirements. All applicants and projects must meet the eligibility requirements found at 7 CFR part 1942, subpart A or any successor regulation.

Re-lenders are responsible for all loan origination and servicing. Re-lenders must obtain Agency approval of applicant and project eligibility. The Agency will obligate aggregated funds to each approved eligible re-lender, but will disburse funds to such re-lenders for eligible projects on a project-by-project basis after making limited eligibility reviews. The re-lender is responsible for providing the Agency with status and servicing reports on each re-loan according to its Re-lender Agreement with the Agency. The Agency will use the information to monitor portfolio performance on the re-loans and to assess the risk to the Agency on the re-lender's portfolio of re-loans.

Because this rule concerns a loan program, it is not subject to the requirements of notice and comment rulemaking pursuant to 5 U.S.C 552(a)(2); however, the Agency is very interested in receiving comments regarding the re-lender activities authorized under this rule and their impacts on the ability of the Agency to make CF direct loan funds available, especially in areas of economic development need. Therefore, this rule is being promulgated as an interim rule to provide interested parties and the public with the opportunity to provide comments to the rule before it becomes final.

The rule will be effective immediately. The 30 day effective date policy is exempt for ''good cause.'' USDA has determined, consistent with the APA that making these funds available through re-lenders is necessary to provide CF funding to the hardest to reach and most needy areas this fiscal year. The Agency intends to test the new program this year with available funds and implement a final rule based on its findings.

The Agency is soliciting comments on this interim rule and will consider them in the final rule. The Agency is particularly interested in whether the public believes the re-lender structure is the best way to reach more persistent and high poverty areas or whether there are alternate proposals.

### *B. Costs and Benefits*

The action is not expected to result in significant costs to the public. Generally speaking, the re-lenders will have a proven track record of successful lending for community infrastructure development in high poverty communities. Additionally, the Agency will continue to perform its due diligence in reviewing and determining applicant and project eligibility for each loan made by the re-lender. Therefore, loans will be made only to strong, viable, mission driven lending institutions for CF eligible projects. These risk mitigation strategies should provide protection to the mission and portfolio of the CF Direct Loan program.

The costs associated with these new provisions will be incurred mainly by the lending institutions who participate in the re-lending of CF direct loans. Re-lenders will incur costs associated with the application process as well as originating, processing, and servicing loans to applicants. Re-lenders will also incur costs associated with reporting to USDA. Applicants will work directly with re-lenders for processing and servicing loans. Applicants may incur additional upfront costs working with a re-lender versus obtaining a loan directly from the Agency. However, the applicant will likely obtain other benefits working with a re-lender that may offset these costs in the long-term. The end result will be a more financially viable project providing an essential community facility or service to the community for years to come.

With the re-lending provision it is expected that re-lenders will leverage these Federal funds with other private and philanthropic funding so that applicants do not incur additional costs. By obtaining private sector support in the form of grants or guarantees, a community re-lender could reduce the cost of structuring the transaction, providing technical assistance to the borrowers, and servicing the loan.

In addition, there may be instances where the applicant incurs higher financing costs. In instances where the borrower receives higher financing costs than he/she would have received through a direct loan, the Agency believes that those costs may be outweighed by other benefits such as the ability to receive funding more quickly and the projects may be able to receive additional technical assistance. There may also be instances where a re-lender could use private grants to offer a lower interest rate to the applicant. For example, if the community lender obtained a grant of $1 million paired with a loan from the CF program of $10 million, the grant could cover not only the re-lenders cost of doing business but subsidize the interest rate to the ultimate recipient even below the CF program market rate. The Agency is not able to estimate how often this would occur though, if at all.

Most importantly, this provision provides re-lenders with capital that they currently lack thereby enhancing their lending capacity so that they can make loans to applicants that otherwise may go unserved, especially in places with high or persistent poverty.

Ultimately, the benefit of the new provision is expected to be an increase in the number of projects that receive funds under the CF Direct Loan program, especially in communities that have historically been economically underserved. There are three factors that work together to achieve this goal: (1) Working with mission driven re-lenders, who already work in the targeted high poverty communities, to deploy CF loan funds in those places, (2) providing those re-lenders with additional capital so they can increase their capacity to make investments in community infrastructure projects, and (3) re-lenders can leverage the CF funds they receive with other private and philanthropic sources of funds in order to provide the right mix of affordable credit with the necessary technical assistance.

First, the re-lenders have proven track records of mission driven lending in high poverty places. The aim of these institutions is to pull together capital to meet a range of community needs as such they typically combine financial return with a social return. Further, the history of working in the community and longstanding relationships means they have the ability to tap different resources and expertise, have boots on the ground and are already visible and working in these areas we want to reach. The existing relationships between re-lenders and community leaders would facilitate and expedite project development that is supported by the community-at-large, resulting in the applicant benefitting from the improved service/facility sooner than under traditional CF lending. Also because of the longstanding work in the community the re-lenders traditionally have technical resources/complimentary programs available to assist applicants. Examples: assist a local nonprofit write a business plan for a daycare facility; assist a local nonprofit with a capital campaign; assist a local community with a strategic plan. Each of these ancillary services will likely result in a project that the re-lender can assist with. By relying on this network of re-lenders, the Agency will not only increase the number of projects funded through the CF Direct Loan program overall it will also increase the number of projects funded in high poverty and persistently poor communities.

Second, re-lenders often lack capital to support all of the much needed community infrastructure projects in the communities they serve. This change will enable a system of lenders who will originate, structure, underwrite, and finance sustainable rural community infrastructure projects. By providing these lenders with additional capital they will be able to grow, achieve organizational capacity, and fund more projects that will improve access to health care, education and other critical services, which will help ensure that rural communities are strong, viable and economically well off.

Lastly, this provision will encourage greater leveraging of private and philanthropic investments in rural community infrastructure. The re-lenders have established relationships with other private and philanthropic funders. Thus the addition of CF funds could unlock additional capital to support community infrastructure development such as grant funding, as previously mentioned, to CF re-lenders. These grant dollars will give community lenders more flexibility and strength as they borrow from the USDA. This will help the re-lenders:

- Develop critically needed community facilities in America's most persistently poor rural communities that would not otherwise be feasible.
- Strengthen community lenders with deep and lasting ties to the local market so they can be enduring resources in economically distressed areas.
- Take advantage of community re-lenders' development expertise and knowledge of the local markets to identify the best community facilities investments.
- Establish partnerships that enable government, private foundations and mission investors to efficiently leverage and effectively target funding to the neediest rural areas.

If the Agency does not make this change the CF Direct Loan program will continue operating as it currently does. In FY15, CF invested 70% of its direct loan funds in facilities that serve high poverty areas. However, there are still some rural places with high poverty areas and persistent poverty counties that remain underserved. These communities need technical and financial support in order to develop an infrastructure project and secure adequate and affordable financing and ensure facilities are built and essential services are provided to some of the most vulnerable rural populations. This change seeks to partner with re-lenders who are positioned to provide the technical assistance to help these communities develop and fund community infrastructure projects.

To better understand the nature of persistent poverty and to help the USDA determine the way to reach those areas, Rural Development (RD) worked with a partner through a cooperative agreement, to learn more about persistent poverty and increasing the impact of RD dollars in these areas. Efforts included holding focus groups with key stakeholders in persistent poverty counties and high poverty areas, and analyzing data. In total, five (5) focus groups were convened with numerous national and regional players in the community development organizations (CDOs) field. The purpose was to understand the needs that exist in areas of persistent poverty, what programs are successfully addressing these challenges, and how these stakeholders think RD could increase its impact and build on effective approaches. Four of the focus groups were held in the regions of concentrated persistent poverty including Appalachia, the Colonias, the Mississippi Delta, and in Indian Country, and one was held with RD officials.

In addition to the focus groups, a listening session with key national players or CDOs was held in Washington, DC on November 30, 2015 as well as various individual conversations were also held with other high-performing CDOs and regional Federal Reserve Banks to gain their perspectives as well. Several common themes emerged from the regional focus groups. These themes included challenges persistent poverty regions encounter and common solutions that have demonstrated success in these regions, which include:

*Common Challenges:*

- *Limited access to mainstream financial products and services*—Residents of all regions are often turned down for checking and savings accounts, or are found ineligible for loans or are extended loan instruments with unfavorable terms.
- *Banking Deserts*—They often have few if any traditional banking entities in or near their communities.
- *Insufficient Private Investment and Lack of Reinvestment*—The financial institutions that do exist in these communities are often hesitant to extend services to low-income clients, and there is a perception that much of the local money that is held at these banks is reinvested elsewhere.
- *Mission-Driven Banking and the Need for Scale*—Credit unions and other non-traditional financing entities fill the gap created by inadequate private investment, but these entities need more equity and human capital to have more expansive impact.
- *Scattered Geographies and Expensive Services*—These regions are largely rural, and residences and services can be a great distance from one another. The further communities are from utilities and other technologies, the more costly they are, if they are available at all.
- *Social Distress*—Substance abuse and fragmented families are not uncommon in these communities. People also need help envisioning a positive future.
- *Outmigration*—Many of the most highly educated residents have a tendency to move away for better job opportunities.
- *Poor Quality Education*—It was universally agreed that the school systems in these communities are not preparing students for a productive future.
- *Infrastructure*—These regions have sub-standard roads and require much-needed infrastructure improvements ranging from water systems to broadband to make them more competitive.

*Common Solutions:*

- *Value of Nonprofits*—Areas of persistent poverty rely heavily on nonprofits and other mission-driven institutions to meet their social and economic needs (capital access, loan packaging services, etc.), but these organizations need more financial and human capacity.
- *Technical Assistance*—High performing mentorships, training opportunities, internships and other forms of information-sharing can boost human capacity.
- *Multi-Sectoral Partnerships*—Everyone agreed that strategically partnering with a variety of different organizations with similar overall missions is always valuable. It builds capacity, and leverages different skill sets and resources for greater impact.
- *Streamlining*—When it comes to implementing a program, applying for funding, or assisting residents, finding ways to simplify the process as much as possible increases efficiency and effectiveness.
- *Strategic Planning*—Programs are more likely to get funded and be successful in the long-term if the groundwork is carefully laid before building partnerships and seeking funding.
- *Employing Locals*—All regions were supportive of finding ways to incentivize businesses to hire locally for community and infrastructure projects or business relocations and expansions.

In persistent poverty communities such as Appalachia, the Colonias, the Mississippi Delta, and in Indian Country, there is a rich and successful history of community development. Poverty produces a multitude of social and economic stressors that compromise the growth and health of affected communities and their residents, particularly those saddled with high levels of disinvestment over prolonged periods of time.

The USDA's Economic Research Service (ERS) has classified 353 counties in the U.S. as 'persistently poor.' These chronically impoverished communities have sustained poverty rates above 20 percent for more than 30 years, and account for approximately 11 percent of all counties nationwide. While dispersed across the U.S., these communities are largely rural and concentrated in Central Appalachia, the Deep South (largely in the Mississippi Delta), the Texas-Mexico border (Colonias), and American-Indian reservations. The social and economic challenges that have handicapped progress in these communities have a number of dimensions.

High-impact CDOs, distinct from banks, investment funds, and other economic development organizations, have a demonstrated track record of implementing the kinds of creative and time-intensive activities that are necessary to create jobs, provide affordable housing, build necessary infrastructure, and strengthen the financial security of millions of lower-income Americans. The focus groups revealed that the problems faced by these communities are complex and multi-layered. Essential community facilities provide high poverty areas with critical services through hospitals, schools, community centers, and fire and police stations. It is not uncommon for distressed areas to be some distance away from the nearest high quality grocery store or health care facility, or for school buildings to be in need of updating. Building hospitals, rehabilitating educational institutions, or providing space for other core social and human services can enhance the quality and quantity of services needed to address the social and economic strains faced by these counties.

This rulemaking adds provisions to the CF Direct Loan program that allows the Agency to make direct loans to re-lenders who then re-loan the funds to eligible applicants for eligible projects. The action will not change the underlying provisions of the included programs (*e.g.,* eligibility, applications, award decisions, scoring, and servicing provisions). The primary benefit associated with the new provisions is expected to be an increase in the number of projects that receive funds under the CF Direct Loan program, especially in persistent poverty counties and high poverty areas in rural America. The costs are minimal. Ultimately, this approach provides an innovative public private partnership that will enable the Federal government to more effectively serve its rural constituents and stakeholders and bolster rural community viability.

## II. Discussion of Interim Rule

The following paragraphs discuss each change being made to the CF Direct Loan program regulations.

### *A. General (§ 1942.1)*

The Agency is modifying this section by including language in paragraph (a) of the section indicating that 7 CFR part 1942, subpart A, contains policies and procedures that allow the Agency to make CF direct loans to approved eligible re-lenders who then in turn re-lend those funds to eligible applicants for eligible projects. The Agency is also re-paragraphing § 1942.1(a) for clarity.

### *B. Re-Lending (§ 1942.30)*

This new section contains the basic policies and procedures associated with the Agency making loans to re-lenders (*i.e.,* those eligible lenders to whom the Agency will make direct loans for purposes of re-lending those funds to eligible applicants for eligible projects). Under these provisions, re-lenders will be responsible for all loan origination and servicing of re-lender loans, and for repaying its loan to the Agency even if the ultimate borrower(s) does not repay the re-lender. The Agency will obligate aggregated funds to approved eligible re-lenders for the purpose of making CF loans, but will disburse loan funds to these re-lenders only on a project-by-project basis. This structure will ensure that only eligible applicants and projects will receive Federal dollars and allow re-lenders to lock in low interest rates and reduce their interest costs with Agency loan disbursements over 5 years.

1. *Re-lender eligibility (paragraph a).* This paragraph identifies the conditions under which a lender would be eligible to be a re-lender for CF direct loans. Re-lenders eligible for these loans must possess the legal authority necessary to make and service loans involving community infrastructure and development similar to the type of projects listed in 7 CFR 1942.17(d); meet federal, state and local requirements in accordance with 7 CFR 1942.17(k); have a history of making loans to community infrastructure projects located in or serving persistent poverty counties or high poverty areas; provide adequate collateral; provide a Letter of Intent; provide an irrevocable letter of credit (or performance guarantee) acceptable to the Agency, prior to receiving loan disbursements; demonstrate that they are regulated and supervised by a Federal or State Banking regulatory agency that is subject to credit examination or demonstrate they meet outlined standards for required financial strength, be a legal non-governmental entity at the time of application (with the exception of Tribal government entities); be a member of a national organization that provides training, technical assistance and credit evaluation of member organizations, agree to loan a majority of funds to applicants whose projects are located in or serve Persistent Poverty County(ies) and High Poverty Area(s); and meet any other criteria specified by the Agency in a Notice published in the **Federal Register**.

2. *Applicant and project eligibility (paragraph b).* The purpose of this paragraph is to identify the types of applicants and the types of projects eligible to receive a CF direct loan through an eligible re-lender. In brief, both the applicant and the project must meet the eligibility requirements currently associated with receiving a CF direct loan directly from the Agency.

3. *Application submission requirements (paragraph c)* This paragraph outlines that in order to apply for funds under this section, a Re-lender must timely submit all items as specified in the annual **Federal Register** notice.

4. *Evaluation criteria (paragraph d).* This paragraph outlines that an Agency will score and rank all eligible and complete Re-lender applications based upon the evaluation factors set out in the annual **Federal Register** which will include, but not be limited to: Lending experience and strength of the re-lender, poverty and project service area, and Administrator's discretionary points.

5. *Other Re-lender requirements (paragraph e).* This paragraph specifies that, prior to receiving a direct loan from the Agency, the re-lender must enter into a Re-lender's agreement in accordance with the applicable **Federal Register** notice, execute a promissory note, provide an irrevocable letter of credit (or performance guarantee) acceptable to the Agency, provide adequate security, and meet any other loan conditions outlined in the annual **Federal Register** notice.

4. *Loan origination and servicing (paragraph f).* This paragraph identifies the basic responsibilities of both the re-lender and the Agency for re-lending loans.

a. *Re-lenders.* The re-lender is responsible for all underwriting (loan origination) and loan servicing of each loan it makes under the re-lending provisions. For each loan a re-lender makes under the re-lending provisions, the Agency expects that each re-lender generally will use its own policies and procedures for loan origination and servicing for all loans it makes.

With regard to loan origination, however, the re-lender is responsible for presenting to the Agency each eligible CF direct loan application and any other documentation to demonstrate that both the applicant and the project meet the eligibility requirements of the CF direct loan regulation. If necessary, the Agency may request the re-lender to submit additional information about the applicant or the project. The Agency may identify in the applicable annual Notice published in the **Federal Register**, any additional specific information and documentation to be provided by the re-lender.

After the loan to the re-lender is made, the re-lender must submit reports to the Agency after any loan disbursement as specified in the annual **Federal Register** notice, certify that the applicant has met all planning, bidding, contracting and construction requirements as specified in the annual **Federal Register** notice, comply with agency requirements concerning NEPA, Civil Rights laws and other applicable Federal, state, and local law, and obtain disbursement of loan funds within 5 years.

b. *Agency.* The basic responsibilities of the Agency are spelled out and cover four basic areas:

i. *Re-lender Eligibility.* The Agency will evaluate the eligibility of the re-lender based on documentation submitted to meet the criteria outlined in the annual **Federal Register** Notice.

ii. *Applicant Eligibility.* Re-lenders will submit to the Agency for Agency review and approval only those applications that the re-lender has determined meet the applicant and project eligibility requirements of 7 CFR part 1942, subpart A and any additional requirements that may be outlined in an annual Notice published in the **Federal Register**. For each CF direct loan application presented by the re-lenders, the Agency will evaluate all information provided by the re-lender to confirm the eligibility of both the applicant and the project. Once the Agency concludes its evaluation, the Agency will notify the re-lender of its determination. Applicants and re-lenders have administrative appeal or review rights for Agency decisions made under this subpart. Programmatic decisions based on clear and objective statutory or regulatory requirements are not appealable; however, such decisions are reviewable for appealability by the National Appeals Division (NAD). The applicant and re-lender may appeal any Agency decision that directly and adversely impacts them. For an adverse decision that impacts the applicant, the re-lender and applicant must jointly execute a written request for appeal for an alleged adverse decision made by the Agency. An adverse decision that only impacts the re-lender may be appealed by the re-lender only. A decision by a re-lender adverse to the interest of the borrower or applicant is not a decision by the Agency, whether or not concurred in by the Agency. Appeals will be conducted by USDA NAD and will be handled in accordance with 7 CFR part 11.

ii. *Funding.* For each re-lender the Agency determines to be eligible, the Agency will obligate aggregated funds based on the re-lender's application for funds and in compliance with additional criteria, if any, published in the annual **Federal Register** Notice. For each applicant/project that the Agency determines eligible, the Agency will disburse from the re-lender's aggregated loan funds the appropriate amount of funds to that re-lender for the approved project. The Agency will require adequate security and compliance with all applicable National Environmental Policy Act provisions prior to making any re-lender loan and disbursing any loan funds.

The Agency will specify any terms and conditions associated with each loan from the Agency to a re-lender in the Re-lender's Agreement.

iii. *Monitoring.* The Agency expects each re-lender to service each loan it makes under these provisions as it would any other loan it makes. Nevertheless, the Agency will require the re-lender to submit reports, as will be specified in the Re-lender's agreement that enable the Agency to evaluate the status of the loans made under these re-lending provisions. The Agency may suspend further disbursements and pursue any other available and appropriate remedies, if any of the ultimate loans become troubled, delinquent or otherwise in default status.

## III. Regulatory Information

### *Executive Order 12866—Classification*

This interim rule has been reviewed under Executive Order (EO) 12866 and has been determined significant by the Office of Management and Budget (OMB) designated this rule as significant under Executive Order 12866 and, therefore, OMB has reviewed this interim rule.

### *Catalog of Federal Domestic Assistance*

The affected programs are listed in the Catalog of Federal Domestic Assistance Program under 10.766, Community Facilities Loans and Grants.

### *Executive Order 12372—Intergovernmental Review*

This program is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. The re-lender conducts intergovernmental consultations on behalf of the Agency for individual loans to borrowers in the manner delineated in 2 CFR part 415, subpart C and at RD Instruction 1970 Subpart I—Intergovernmental Review. Note that not all States have chosen to participate in the intergovernmental review process. A list of participating States is available at the following Web site: *http://www.whitehouse.gov/omb/grants/spoc.html.*

### *Executive Order 13175—Consultation and Coordination With Indian Tribal Governments*

This rule has been reviewed in accordance with the requirements of Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments." Executive Order (EO) 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

The Agency has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under EO 13175. If a Tribe requests consultation, the Agency will work with the USDA's Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions and modifications identified herein are not expressly mandated by Congress.

### *Executive Order 12988—Civil Justice Reform*

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings of the National Appeals Division (7 CFR part 11) must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

### *Environmental Impact Statement*

The document has been reviewed in accordance with 7 CFR part 1970, "Environmental Policies and Procedures." The Agency has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 *et seq.*, an Environmental Impact Statement is not required. Individual loans will be subject to 7 CFR part 1970 for NEPA compliance.

### *Unfunded Mandates Reform Act*

This rule contains no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995) for State, local, and Tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

### *Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), generally requires an agency to prepare a regulatory flexibility analysis of any rule whenever an agency is required by the Administrative Procedure Act (5 U.S.C. 553) or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. None of the borrowers under the Community Facility Loan program are small businesses. Thus, this rule will not have a significant impact on a substantial number of small businesses.

### *Executive Order 13132—Federalism*

The policies contained in this rule do not have any substantial direct effect on states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with states is not required.

### *E-Government Act Compliance*

The Agency is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

*Paperwork Reduction Act*

In accordance with the Paperwork Reduction Act of 1995, the Agency is now seeking the Office of Management and Budget (OMB) approval of the reporting and recordkeeping requirements contained in this rule. With the permission of OMB, the Agency will be temporarily using these forms and recordkeeping requirements while seeking comments on the information collection.

*Title:* Community Facility Loans.

*OMB Number:* 0575—new.

*Type of Request:* New collection.

*Abstract:* This is a new information collection. This information is vital to the Agency to make wise decisions regarding the eligibility of certain qualified lenders to be "re-lenders" under the Community Facility Loan program to ensure that funds obtained from the Government are used appropriately. This collection of information is necessary in order to implement the re-lender provisions of the modified Community Facility Loan program.

The following estimates are based on the average over the first three years the re-lender provisions are in place.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 67 hours per response. This submission is for 20 respondents with 790 responses and 1,462 burden hours. Rural Development estimates 20 re-lender applications, 10 re-lenders approved for funding and 50 applicant loans among the 10 re-lenders on an annual basis. The estimated number of total man-hours on an annual basis is 1,462 for a total cost of $121,346 ($83 × 1,462). The cost of the regulations as a burden to the public was computed on the basis of $83.00 per hour. This is the wage class most comparable to what eligible nonprofit employee compensation would be to process the information requested. This is the same wage class used in the Intermediary Relending Program which has a similar type of re-lender (0570–0021 dated February 2016).

*Respondents:* Lending institutions.

*Estimated Number of Respondents:* 20.

*Estimated Number of Responses:* 790.

*Estimated Total Annual Burden on Respondents:* 1,462.

Rural Development is amending its CF Direct Loan regulation to enable the Agency to make loans to qualified re-lenders. Information collected from the re-lender is necessary to determine re-lender eligibility which includes legal authority, compliance with federal, state, and local requirements, experience, and financial strength. Upon OMB approval, this collection package and burden will be merged into the existing Community Facility Loans burden package—OMB No. 0575–0015.

The information will be collected by the RD national office and field offices from re-lenders. This information is used to determine re-lender eligibility to participate in the Community Facilities program, to document that re-lenders have adequate security to protect the financial interest of the Government and to provide on-going reporting data to ascertain re-lenders operate on a sound basis including adhering to civil rights requirements.

To participate in the CF re-lender provision, re-lenders must make application to RD, provide financial information, certifications and other documentation to support their eligibility and priority to receive funding. Documents or documentation in this category include the following:

Reporting Requirements—Non Forms:

- *Documentation of Legal Powers:* Only re-lenders with legal authority to make and service loans involving community infrastructure and development will be eligible. Documentation may come in the form of a legal opinion or a copy of the re-lenders organizational documents.
- *Certification of compliance with federal, state and local requirements:* Re-lenders responsible for administering a loan fund need to understand and be in compliance with laws impacting their operations and the operations of the clients they serve. Examples include local building requirements, state laws regarding certificates of need for health care facilities, Equal Credit Opportunity Act, and environmental compliance.
- *Documentation of Serving Persistent Poverty County(ies) or High Poverty Areas:* Re-lenders are required to provide documentation of their current portfolio or experience providing loans in Persistent Poverty County(ies) or High Poverty Area(s) to determine eligibility and priority. This documentation is also used in the evaluation factors and does not need to be duplicated.
- *Documentation from a Financial Institution that an Irrevocable Letter of Credit (or a performance guarantee) acceptable to the Agency will be issued if re-lender is approved for funding:* Re-lenders will provide this documentation at the time of application for eligibility. The purpose of this documentation (also referred to as a "Letter of Intent") is to insure Rural Development that the re-lender is creditworthy for the amount of financial assistance requested.
- *Documentation Regulated and Supervised by a Federal or State Banking Regulatory Agency, Subject to Credit Examination, Not on a Watch List, and No Regulatory Actions Outstanding:* We estimate approximately 45% of re-lenders will provide this documentation for eligibility. The documentation insures Rural Development that the re-lender has the requisite capital, asset quality, management, earnings, liquidity, and sensitivity to market risk to operate a federally financed loan fund.
- *Documentation of strong Financial Strength and Performance rating:* We estimate approximately 20% of re-lenders will provide this documentation for eligibility. The assessment, conducted by an independent third party, evaluates overall creditworthiness based on an analysis of past financial performance, current financial strength, and apparent risk factors. The documentation insures Rural Development that the re-lender has the requisite capital, asset quality, management, earnings, liquidity, and sensitivity to market risk to operate a federally financed loan fund.
- *Documentation of being a financially sound institution:* We estimate approximately 35% of re-lenders will need to undergo an assessment by Rural Development to assess their capital adequacy, adequate liquidity, management capabilities, repayment ability, credit worthiness, balance sheet equity & other financial factors. To conduct the assessment, Rural Development requires the following documentation:

A. 3 years audited financial statements.

B. Interim financial statements as of most recent quarter end.

C. Auditor's most recent management letter and management's response.

D. Operating Budget versus Actual for last completed fiscal year and most recent quarter-end.

E. Schedule of outstanding debt (name of creditor, balance, origination and maturity dates, note rate, collateralization), and attach covenants.

F. Schedule of 5 largest sources of grant funding over each of the last 3 fiscal years (including grantor name, amount granted, description of allowable uses or any restrictions).

G. Schedule of 5 largest investors over each of the last 3 fiscal years (including investor name, total investment, form of investment, description of allowable uses or any restrictions).

H. Schedule of any other funding sources, including off-balance sheet financing, for the last completed fiscal year and most recent quarter-end.

I. List and description of any contingent liabilities.

J. Schedule of loans receivable (including borrower, loan type, description of collateral, original and maturity dates, note rate, current status *e.g.* delinquency or nonaccrual).

K. Schedule of loans restructured and modified in each of the last 3 fiscal years and most recent YTD (including borrower, pre and post-mod loan terms, and current payment status).

L. Schedule of loans charged off in each of the last 3 fiscal years and most recent YTD, with any recoveries realized.

M. Any external loan reviews performed over the last 3 years.

N. Bylaws.

O. Credit policies and procedures (loan underwriting, servicing, portfolio management).

P. Loan risk grading and assessment system.

Q. Enterprise risk management policies and procedures.

R. Disaster recovery plan.

S. Accounting policies (including loss reserve policies).

T. Staff organizational chart, including names and titles for senior staff.

U. Organizational chart showing relationships to any parents, subsidiaries, or affiliates.

V. Management Team resumes.

W. Succession plans for key leadership and staff.

X. Board roster, with affiliations.

Y. Board meeting minutes for past year.

Z. Board meeting packets for last year.

AA. Most recent strategic plan.

BB. Most recent annual report.

CC. Description of programs, financial and non-financial products and services.

- *Documentation of Legal, Non-governmental Status (except for Tribal governments):* Only non-governmental organizations (except for Tribal governments) will be eligible to participate as a re-lender. Documentation may come in the form of a legal opinion or a copy of the re-lenders organizational documents. This documentation is also used to determine legal powers and does not need to be duplicated.
- *Documentation of Membership in a National Organization that provides training, technical assistance and credit evaluation or certified by a Government agency as having a primary mission of promoting development in low-income target markets and performs training and technical assistance as part of that mission:* This documentation is used to determine re-lender eligibility. The purpose of the information is to provide Rural Development with assurances of the re-lender's basic credentials and professional standing in their industry and that their mission is aligned with the goals of the re-lending provision.
- *Certification to loan a majority of funds to applicants whose projects are located in or serve Persistent Poverty County(ies) or High Poverty Area(s):* This certification for eligibility will provide to Rural Development the re-lender's commitment to providing economic benefit in areas of greatest need in rural America. Rural Development will review the re-lender's loan disbursements to determine that this eligibility criteria is met.
- *RD Instruction 1970–A, Exhibit H, "Multi-tier Action Environmental Compliance Agreement":* This agreement is signed by the re-lender (primary recipient of the loan funds) before Rural Development moves forward with obligation of the initial aggregated funds. The agreement stipulates the re-lender's environmental compliance requirements for applicant loans.
- *Documentation of Assistance Provided to Rural Development Employees (written):* Re-lenders must identify and report any known relationship or association with an RD employee such as close personal association, immediate family, close relatives, or business associates. This includes any assistance provided to employees.
- *Documentation of each evaluation factor (written):* Re-lender applications will be prioritized for funding based on years of loan fund experience, lending history in Persistent Poverty County(ies) or Poverty Areas, and discretionary points for geographic distribution, emergency conditions, and natural disasters.
- *Workers Compensation Insurance, if applicable:* This form of insurance is normal in any organization and Rural Development requires it to be available at the time of application. However, insurance requirements will not normally exceed those proposed by the re-lender.
- *Irrevocable Letter of Credit:* This document (or a performance guarantee) acceptable to the Agency serves as security for the loan between the re-lender and Rural Development and will be required by all re-lenders prior to loan disbursement. This document is issued by a financial institution.
- *Loan Origination and Servicing—applicant eligibility:* Applicants will apply directly to re-lenders for financial assistance. Re-lenders will be responsible for insuring applicants and the applicant's projects are eligible under 7 CFR 1942 Subpart A, Community Facilities Loan program and underwriting the loans for financial feasibility. Applicants applying to re-lenders will meet the same application requirements as applicant's applying to Rural Development including all environmental review requirements of 7 CFR 1970. No additional burden by Rural Development will be placed on the applicant. Re-lenders will pass through to Rural Development certain applicant documents to obtain Rural Development concurrence in applicant eligibility, project eligibility and eligible rural area.
- *Loan Origination and Servicing—reporting:* Rural Development will monitor the re-lender's portfolio on a quarterly and annual basis to insure the re-lender remains a financially sound institution in compliance with its Re-lender's Agreement.

Reporting Requirements—Forms:

- *RD 1942–46, "Letter of Intent to Meet Conditions" (OMB Control No. 0575–0015:* The re-lender completes this form to indicate the intent to meet the conditions of the loan closing(s). This information is necessary for Rural Development to continue further processing of the loan application.
- *RD 1942–55 "Re-lender's Agreement":* This agreement is necessary to insure the re-lender is informed about its responsibilities and agrees to comply. The agreement covers among other things the following information: loan terms; disbursement procedures; responsibilities related to compliance with 7 CFR 1942, Subpart A with respect to eligible applicants and projects, Civil Rights, environmental, security, planning, bidding, contracting, construction and servicing; collateral, insurance and reporting requirements; and default provisions.
- *RD 1942–56, "Promissory Note":* This document is executed by the re-lender as evidence of its indebtedness to Rural Development.
- *RD 1942–57, "Loan Resolution Security Agreement":* This document is executed by the re-lender to attest to its legal authority as an organization to enter into the specific loan transaction, and provides for the pledging of certain assets to secure Rural Development's loan to the re-lender.
- *RD 440–11, "Estimate of Funds needed for 30-day Period Commencing" (OMB Control No. 0575–0015):* This form is a request used by the re-lender

to indicate the amount of funds required for a 30-day period. It is concurred in by Rural Development as to the reasonableness of the amount.

- *RD 440–24, Position Fidelity Schedule Bond Declarations of other evidence of coverage (OMB Control No. 0575–0015:* This form may be used by organizations (where permitted by state law) to provide fidelity bond coverage for certain officials entrusted with funds. It is required at application and thereafter annually as a reporting requirement.
- *RD 442–7, "Operating Budget" (OMB Control No. 0575–0015):* The form is used by the re-lender to project income and expense items and a complete cash flow through the first full year of the loan proceeds. These projections are necessary in determining the source and reliability of the projected income and the adequacy of resources to repay the loan in a timely manner.
- *RD 400–1, "Equal Opportunity Agreement" (OMB Control No. 0575–0018):* The form is completed by the re-lender when construction work is subject to the provisions of the Civil Rights compliance requirements that contractors cannot discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.
- *RD 400–4, "Assurance Agreement"* (OMB Control No. 0575–0018): The form is completed by the re-lender and used to confirm that recipients of Rural Development loans have been reminded of their obligation to comply with all provisions of the Civil Rights Act of 1964 and regulations of Rural Development.
- *AD–1047, "Certification Regarding Debarment, Suspension & Other Responsibility Matters—Primary Covered Transactions (OMB Control No. 0505–0027):* USDA regulations published at 2 CFR parts 180 and 417 implement the government-wide debarment and suspension system for USDA's non procurement transactions. Applicants and re-lenders are required to provide certification under these regulations. Form AD–1047 may be used to obtain the required certification.
- *SF 424, "Application for Federal Assistance" (OMB Control No. 4040–0004):* Re-lenders use this form to apply under the re-lending provision. This is a common form, and as such, the numbers have been accounted for through the Request for Common Forms.
- *SF 424A, "Budget Information—Non-Construction Programs (OMB Control No. 4040–0006):* Re-lenders use this form to project costs and expenses for the re-lending provision. The form also provides Rural Development information on matching funds.
- *SF 424B, "Assurances—Non-Construction Programs (OMB Control No. 4040–0007):* Re-lenders read and sign this form to indicate the organization's intent to comply with the laws, regulations, and policies to which a loan is subject.
- *AD 3030, "Representations Regarding Felony Convictions and Tax Delinquency Status for Corporate Applicants" and AD 3031, "Assurances Regarding Felony Convictions and Tax Delinquency Status for Corporate Applicants" (OMB Control No. 0505–0025):* Completed by the re-lender once at the time of application. These two forms are required by Public Law 114–113.
- *SF LLL, "Certification of Non-Lobbying Activities or Disclosure of Lobbying Activities" (OMB Control No. 4040–0013):* Re-lenders who are awarded loans over $100,000 and/or lobby are required to complete this form.
- *SF 3881, ACH Vendor/Miscellaneous Payment Enrollment Form (OMB Control No. 1510–0056):* The re-lender and its financial institution will complete this form and provide it to Rural Development. The information contained in the form will be used to establish an electronic transfer of loan funds to the re-lender.

Recordkeeping Requirements:

- *Quarterly Financial Statements:* Re-lenders will be required to submit financial statements quarterly to Rural Development. Rural Development will use the information to monitor the credit worthiness and paying capacity of the re-lender. Financial statements will include a verification by an official of the re-lender's organization.
- *Quarterly report of re-lent loans:* Re-lenders will provide a report that includes the following: Borrower name, outstanding principal and interest balance, status, amount and due date of the next installment due, and servicing actions conducted for any delinquent loan. Rural Development will use the information to monitor the current credit worthiness and paying capacity of the borrowers and to insure that re-lenders are adequately servicing the loan accounts in compliance with the Re-lender's Agreement.
- *Annual Audit:* Annual audits are required from all re-lenders. The audits help Rural Development determine if the operations are sound and the intended services are being provided to the public. Often Rural Development can use the audits to predict developing financial problems and suggest corrective steps before the problems become serious.
- *Financial Strength and Performance Rating:* Re-lenders will provide Rural Development with their most recent Financial Strength and Performance Rating, not more than 3 years old, as conducted by an independent third party. The assessment includes overall creditworthiness based on an analysis of past financial performance, current financial strength, and apparent risk factors. The documentation insures Rural Development that the re-lender continues to have the requisite capital, asset quality, management, earnings, liquidity, and sensitivity to market risk to operate a federally financed loan fund.
- *Certification Re-lender and Borrower have met requirements of 7 CFR 3575.42 and 7 CFR 3575.43:* Re-lenders are required to inform Borrowers of their responsibility for planning, bidding, contracting and construction and certify at the end of construction that all funds were utilized for authorized purposes.
- *Civil Rights data:* Re-lenders are required to comply with Title VI of the Civil Rights Act of 1964. They will collect and maintain data on Applicants by race, sex, and national origin, and ensure that Applicants also collect and maintain the same data on beneficiaries. Rural Development will use the information to conduct a compliance review once every three years.
- *Documentation of providing funds to Persistent Poverty County(ies) and High Poverty Area(s):* Re-lenders will provide this documentation to meet the additional terms specified in the annual Notice so Rural Development can monitor the re-lender's agreement to loan a majority of funds to applicants whose projects are located in these areas. Documentation is accessible to the re-lender at public Web sites identified by Rural Development in the annual Notice.

Information needed is specific to each re-lender. The Agency has many requirements that involve certifications from the re-lender as well as other parties involved. The Agency could not comply with legislative mandates without these certifications. All of the public use forms have been automated and put on the internet to comply with the Government Paperwork Elimination Act; however, at this time, the Agency is not collecting any of this information through an electronic application system. Based on the eGov initiative, all efforts will be made to comply with the migration of federal forms into web-based fillable format consistent with the Agency's timeline.

The Agency has reviewed all loan programs it administers to determine which programs may be similar in intent and purpose. The Agency has other programs that are similar. If there were simultaneous participation in more than one Agency's programs, the Agency would make every effort to accommodate the requests within the same set of applications and processing forms. This effort is presently facilitated by assignment of management of these programs to the same program area of responsibility. If a re-lender is applying for or receiving a loan from another Federal agency, forms and documents furnished by the other agency would be utilized to the extent possible.

Information to be collected is in a format designed to minimize the paperwork burden on small businesses and other small entities. The information collected is the minimum needed by the Agency to approve loans and monitor re-lender performance.

The information collected under this program is considered to be the minimum necessary to conform to the requirements of the program regulations established by law. Information is collected only when needed, and we believe no reduction of collection is possible. Failure to collect proper information could result in improper determinations of eligibility, improper use of funds, and/or unsound loans.

### Non-Discrimination Policy

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *http://www.ascr.usda.gov/complaint_filing_cust.html* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by:

(1) *Mail*: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250–9410;

(2) *Fax*: (202) 690–7442; or

(3) *Email: Program.intake@usda.gov.*

USDA is an equal opportunity provider, employer, and lender.

### Invitation To Comment

The Agency is interested in receiving comments on all aspects of the interim rule. Thus, the Agency encourages interested persons and organizations to submit written comments, which may include data, suggestions, or opinions. Commenters should include their name, address, and other appropriate contact information. If persons with disabilities (*e.g.,* deaf, hard of hearing, or have speech difficulties) require an alternative means of receiving this notice (*e.g.,* Braille, large print, audiotape) in order to submit comments, please contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Comments may be submitted by any of the means identified in the **ADDRESSES** section. If comments are submitted by mail or hand delivery, they should be submitted in an unbound format, no larger than letter-size, suitable for copying and electronic filing. If confirmation of receipt is requested, a stamped, self-addressed, postcard or envelope should be enclosed. RD will consider all comments received during the comment period and will address comments in the preamble to the final regulation.

### List of Subjects in 7 CFR Part 1942

Business and industry, Community development, Community facilities, Grant programs—Housing and community development, Industrial park, Loan programs—Housing and community development, Loan security, Rural areas, Waste treatment and disposal—Domestic, Water supply—Domestic.

For the reasons stated in the preamble, Chapter XVIII, Title 7 of the Code of Federal Regulations is amended as follows:

## PART 1942—ASSOCIATIONS

■ 1. The authority citation for part 1942 continues to read as follows:

**Authority:** 5 U.S.C. 301; 7 U.S.C. 1989.

## Subpart A—Community Facility Loans

■ 2. Amend § 1942.1 by revising paragraph (a) to read as follows:

### § 1942.1 General.

(a) This subpart outlines the policies and procedures for making and processing direct loans for Community Facilities except fire and rescue and other small essential community facility loans and water and waste disposal facilities. This subpart applies to Community Facilities loans for fire and rescue and other small essential community facility loans only as specifically provided for in subpart C of this part. Water and waste loans are provided for in part 1780 of this title.

(1) The policies and procedures in this subpart address both loans between the Agency and the applicant and between the Agency and an approved eligible re-lender who then relends the funds to eligible applicants for eligible projects under this subpart.

(2) The Agency shall cooperate fully with State, Tribal and local agencies in making loans to assure maximum support to the State and Tribal strategies for rural development. State Directors and their staffs shall maintain coordination and liaison with State agency and substate planning districts. Funds allocated for use under this subpart are also for the use of Indian tribes within the State, regardless of whether State development strategies include Indian reservations within the State's boundaries. Indians residing on such reservations must have equal opportunity to participate in the benefits of these programs as compared with other residents of the State.

(3) Federal statutes provide for extending Agency financial programs without regard to race, color, religion, sex, national origin, marital status, age, or physical/mental handicap. The participants must possess the capacity to enter into legal contracts under State and local statutes.

(4) Any processing or servicing activity conducted pursuant to this subpart involving authorized assistance to Agency employees, members of their families, known close relatives, or business or close personal associates, is

subject to the provisions of subpart D of part 1900 of this chapter. Applicants for this assistance are required to identify any known relationship or association with an Agency employee.

* * * * *

■ 3. Add § 1942.30 to read as follows:

**§ 1942.30 Re-lending.**

The provisions in this section establish the process by which the Agency may make loans to eligible re-lenders who then in turn re-loan the funds to eligible applicants for eligible projects under this subpart. This section may be supplemented by provisions in annual notices published in the **Federal Register**. In such notices, the Agency may impose, among other things, limits on the total amount of funds to be used through this process and the amount of the loan funding that will be provided to each re-lender.

(a) *Re-lender eligibility.* Re-lenders must meet each of the following requirements:

(1) Demonstrate the legal authority necessary to make and service loans involving community infrastructure and development similar to the type of projects listed in § 1942.17(d);

(2) Meet federal, state and local requirements in accordance with § 1942.17(k);

(3) As specified in the annual **Federal Register** notice, demonstrate that a percent of its portfolio is for projects located in or serving Persistent Poverty County(ies) or High Poverty Areas, or that the Re-lender has a minimum amount of experience making loans for projects located in or serving Persistent Poverty County(ies) or High Poverty Area(s);

(4) Agree to provide adequate collateral, as determined by the Agency, to support the loan request;

(5) Provide a Letter of Intent from a financial institution that an Irrevocable Letter of Credit (or performance guarantee) acceptable to the Agency will be issued by the financial institution if the Re-lender is approved for funding;

(6) As specified in the annual **Federal Register** notice, agree to provide an Irrevocable Letter of Credit (or performance guarantee) acceptable to the Agency in the minimum amount equal to the principal and interest installments due the Agency during the first five (5) years of the loan, prior to receiving loan disbursements;

(7) Demonstrate one of the following, as provided in the annual **Federal Register** notice:

(i) Re-lender is regulated and supervised by a Federal or State Banking Regulatory Agency that is subject to credit examination, AND the institution, its subsidiaries, holding companies, and affiliates are not on their respective regulatory agency's watch list and have no regulatory actions outstanding against them;

(ii) Re-lender has a strong Financial Strength and Performance Rating as specified in the annual **Federal Register** notice. The achieved rating must indicate financial strength, performance, and risk management practices that consistently provide for safe and sound operations; or

(iii) At the time of application, Re-lender provides written documentation, acceptable to the Agency, from a financial institution that an Irrevocable Letter of Credit (or performance guarantee) acceptable to the Agency will be issued by the financial institution, if the Re-lender is approved for funding; and the Re-lender:

(A) Obtains a strong Financial Strength and Performance Rating as specified in the Annual **Federal Register** notice prior to any funds being advanced; or

(B) Proves to be a financially sound institution as determined by the Agency in accordance with the annual **Federal Register** notice;

(8) Be a legal, non-governmental entity at the time of application (with the exception of Tribal governmental entities);

(9) Be a member of a national organization that provides training, technical assistance and credit evaluation of member organizations, such as FDIC, NCUA or other similar organizations; or be certified by a Government agency as having a primary mission of promoting community development in low-income target markets and perform training and technical assistance as part of that mission;

(10) Agrees to loan a majority of Agency funds, as specified in the annual **Federal Register** notice, to applicants whose projects are located in or serve Persistent Poverty County(ies) or High Poverty Area(s); and

(11) Meet any other criteria specified by the Agency in the annual Notice published in the **Federal Register**.

(b) *Applicant and project eligibility.* To be eligible for a CF Direct loan from a re-lender under this section,

(1) The applicant must meet the eligibility requirements found in this subpart, including but not limited to those in § 1942.2(a)(2) regarding the inability to obtain credit elsewhere and § 1942.17(b) and (k);

(2) The applicant must comply with any other criteria specified by the Agency in the annual Program Notice published in the **Federal Register**; and

(3) The project must:

(i) Meet all of the eligibility requirements for a project found in this subpart, including but not limited to § 1942.17(b)(2), (d), (e), and (g) and all environmental review requirements as specified in § 1942.2(b) and 7 CFR part 1970; and

(ii) Meet any additional requirements that may be specified in the program's annual Notice published in the **Federal Register**.

(c) *Application submission requirements.* To apply for funds under this section, a Re-lender must timely submit all items as specified in the annual **Federal Register** notice.

(d) *Evaluation criteria.* The Agency will score and rank all eligible and complete Re-lender applications based upon the evaluation factors set out in the annual **Federal Register** notice, including but not limited to: Lending experience and strength of the re-lender, poverty and project service area, and Administrator's discretionary points.

(e) *Other Re-lender requirements.* Prior to receiving a direct loan from the Agency, the eligible re-lender must:

(1) Enter into a Re-lender's agreement provided by the Agency;

(2) Execute a promissory note;

(3) Provide an Agency approved Irrevocable Letter of Credit (or performance guarantee) acceptable to the Agency in the minimum amount equal to the principal and interest installments due during the first five (5) years of the loan, prior to receiving any loan disbursements;

(4) Provide adequate collateral satisfactory to the agency; and

(5) Meet any other loan conditions as described in the annual Notice published in the **Federal Register**.

(f) *Loan origination and servicing*—(1)*Re-lenders.* After the Agency loan is made to the Re-lender, the Re-lender is responsible for:

(i) Presenting to the Agency eligible CF direct loan applications in accordance with this subpart and any additional terms established in the applicable annual Notice published in the **Federal Register**;

(ii) Underwriting and servicing each loan reviewed and approved by the Agency under this section;

(iii) Submitting reports to the Agency after any loan disbursement as specified in the annual **Federal Register** notice;

(iv) Certifying to the Agency that the Re-lender and Borrower have met the requirements of 7 CFR 3575.42 and 3575.43 for planning, bidding, contracting and construction, as specified in the annual **Federal Register** Notice;

(v) Complying with other Agency requirements as specified in the annual

**Federal Register** notice concerning environmental, civil rights, and other applicable Federal state, and local law;

(vi) Obtaining disbursement of loan funds according to this section and the annual **Federal Register** notice within 5 years. Any loan funds not disbursed within that time will be deobligated and become unavailable for disbursement.

(2) *Agency responsibilities.* (i) Based on the information presented by the Re-lender and any additional information that may be requested by the Agency, the Agency will determine the eligibility of the applicant and project under this subpart.

(ii) The Agency will notify the re-lender of its determination and any administrative review or appeal rights for Agency decisions made under this subpart. Programmatic decisions based on clear and objective statutory or regulatory requirements are not appealable; however, such decisions are reviewable for appealability by the National Appeals Division (NAD). The applicant and re-lender may appeal any Agency decision that directly and adversely impacts them. For an adverse decision that impacts the applicant, the re-lender and applicant must jointly execute a written request for appeal for an alleged adverse decision made by the Agency. An adverse decision that only impacts the re-lender may be appealed by the re-lender only. A decision by a re-lender adverse to the interest of an applicant or borrower is not a decision by the Agency, whether or not concurred in by the Agency. Appeals will be conducted by USDA NAD and will be handled in accordance with 7 CFR part 11.

(iii) For approved eligible borrowers and projects, the Agency will confirm that all environmental requirements as specified in this subpart and 7 CFR part 1970 have been met and that the Re-lender has provided adequate security for its loan, before the Agency will disburse funds to the Re-lender;

(iv) The Agency will service each re-lender's loan in accordance with 7 CFR part 1951, subpart E. The Agency may suspend further disbursements, and pursue any other available and appropriate remedies, if any of the re-lender loans become troubled, delinquent, or otherwise in default status, or if the re-lender is not meeting the terms of its Relender's Agreement.

Dated: June 29, 2016.

**Lisa Mensah,**

*Under Secretary, Rural Development.*

Dated: June 29, 2016.

**Alexis Taylor,**

*Deputy Under Secretary, Farm and Foreign Agricultural Services.*

[FR Doc. 2016–16005 Filed 7–5–16; 8:45 am]

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Parts 250 and 385

**[Docket No. RM16–16–000; Order No. 826]**

## Civil Monetary Penalty Inflation Adjustments

**AGENCY:** Federal Energy Regulatory Commission, Department of Energy.

**ACTION:** Interim final rule.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) is issuing an interim final rule to amend its regulations governing the maximum civil monetary penalties assessable for violations of statutes, rules, and orders within the Commission's jurisdiction. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended most recently by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, requires the Commission to issue this interim final rule.

**DATES:** *Effective Date:* This interim final rule is effective July 6, 2016.

**FOR FURTHER INFORMATION CONTACT:** Todd Hettenbach, Attorney, Office of Enforcement, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8794, *Todd.Hettenbach@ferc.gov.*

**SUPPLEMENTARY INFORMATION:**

### Order No. 826

### Interim Final Rule

1. In this interim final rule, the Federal Energy Regulatory Commission (Commission) is complying with its statutory obligation to amend the civil monetary penalties provided by law for matters within the agency's jurisdiction.

### I. Background

2. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Adjustment Act),[1] which further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (1990 Adjustment Act),[2] requires the head of each federal agency to issue an "interim final rule" by July 1, 2016 adjusting for inflation each "civil monetary penalty" provided by law within the agency's jurisdiction. The agency must then update each such civil monetary penalty on an annual basis every January 15 thereafter.[3]

### II. Discussion

3. The 2015 Adjustment Act defines a civil monetary penalty as any penalty, fine, or other sanction that: (A)(i) Is for a specific monetary amount as provided by federal law or (ii) has a maximum amount provided for by federal law; (B) is assessed or enforced by an agency pursuant to federal law; and (C) is assessed or enforced pursuant to an administrative proceeding or a civil action in the federal courts.[4] This definition applies to the maximum civil penalties that may be imposed under the Federal Power Act (FPA),[5] the Natural Gas Act (NGA),[6] the Natural Gas Policy Act of 1978 (NGPA),[7] and the Interstate Commerce Act (ICA).[8]

4. Under the 2015 Adjustment Act, for the initial adjustment, the first step for such adjustment of a civil monetary penalty for inflation requires determining the percentage by which the U.S. Department of Labor's Consumer Price Index for all-urban consumers (CPI–U) for October of the preceding year exceeds the CPI–U for October of the year in which the civil monetary penalty was last set or adjusted under a provision of law other than the 1990 and 2015 Adjustment Acts.[9] The Office of Management and Budget has instructed agencies to use the CPI–U for 1914 when calculating the inflation multiplier for penalties established or last adjusted prior to 1914.[10] Adjustments previously made for inflation pursuant to the 1990 Adjustment Act must be excluded.[11] The first adjustment, which is the subject of the present interim final rule, is limited to 150 percent of the civil monetary penalty that was in effect on November 2, 2015.[12]

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[1] Sec. 701, Public Law 114–74, 129 Stat. 584, 599.

[2] Public Law 101–410, 104 Stat. 890 (codified as amended at 28 U.S.C. 2461 note).

[3] 28 U.S.C. 2461 note, at (4).

[4] *Id.* (3).

[5] 16 U.S.C. 791a *et seq.*

[6] 15 U.S.C. 717 *et seq.*

[7] 15 U.S.C. 3301 *et seq.*

[8] 49 App. U.S.C. 1 *et seq.* (1988).

[9] 28 U.S.C. 2461 note, at (5)(b)..

[10] *See* Memorandum from Shaun Donovan, Office of Management and Budget, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 6 (Feb. 24, 2016).

[11] *Id.* (5)(b)(2)(A).

[12] *Id.* (5)(b)(2)(C).

5. The second step requires multiplying the CPI–U percentage increase by the applicable November 2, 2015 civil monetary penalty.[13] This step results in a base penalty increase amount.

6. The third step requires rounding the base penalty increase amount to the nearest dollar.[14]

7. Under the 2015 Adjustment Act, an agency is directed to use the civil monetary penalty applicable at the time of assessment of a civil penalty, regardless of the date on which the violation occurred.[15]

8. The Commission currently has civil monetary penalty authority of up to $1,000,000 per violation, per day under section 316A(b) of the FPA.[16] This civil monetary penalty applies to violations of provisions of Part II of the FPA and to violations of rules and orders promulgated pursuant to Part II of the FPA. Congress increased this Civil Monetary Penalty in 2005 from $10,000 to $1,000,000, and it expanded the scope of conduct to which the penalty applies. The Commission has not adjusted this civil monetary penalty for inflation. Inflation during the relevant period was 19.397 percent[17]—the percentage by which the CPI–U for October of the prior year (October 2015, for which the CPI–U=237.838) exceeds the CPI–U for October of the year in which the Civil Monetary Penalty was last set or adjusted (October 2005, for which the CPI–U=199.2). The resulting civil monetary penalty is $1,193,970.[18]

9. The Commission currently has civil monetary penalty authority of $11,000 per violation, per day under section 31(c) of the FPA.[19] This civil monetary penalty applies to licensees, permittees, and exemptees who: (a) Violate or fail or refuse to comply with any rule or regulation issued under Part I of the FPA; (b) violate or fail or refuse to comply with any term or condition of a license, permit, or exemption under Part I of the FPA; or (c) violate or fail or refuse to comply with any order issued pursuant to the Commission's authority to monitor and investigate licenses and permits issued under Part I of the FPA. Congress established this civil monetary penalty at $10,000 in 1986.[20] The only time that the Commission adjusted this civil monetary penalty was in 2002, when it increased the civil monetary penalty from $10,000 to $11,000 to account for inflation pursuant to the 1990 Adjustment Act.[21] According to the 2015 Adjustment Act, however, the Commission must disregard such increases made pursuant to the 1990 Adjustment Act. Inflation between October 1986 and October 2015 was 115.628 percent—the percentage by which the CPI–U for October of the prior year (October 2015, for which the CPI–U=237.838) exceeds the CPI–U for October of the year in which the civil monetary penalty was last set or adjusted for purposes of the 2015 Adjustment Act (October 1986, for which the CPI–U=110.3).[22] The resulting increase rounded to the nearest dollar is $11,563, and the resulting civil monetary penalty is $21,563.

10. Under section 315(a) of the FPA, public utilities or licensees are currently subject to civil forfeiture for any willful failure to: Comply with any order of the Commission; file any report required under the FPA or any rule or regulation promulgated pursuant to the FPA; submit any information or document required by the Commission in the course of an investigation conducted under the FPA; or to appear at any hearing or investigation in response to a subpoena issued under the FPA.[23] Congress established this civil monetary penalty at $1,000 in 1935.[24] The only time that the Commission adjusted it was in 2002, when the Commission increased the civil monetary penalty from $1,000 to $1,100 to account for inflation pursuant to the 1990 Adjustment Act.[25] The Commission must disregard such increases made pursuant to the 1990 Adjustment Act. Inflation during the relevant period was 1,636.044 percent—the percentage by which the CPI–U for October of the prior year (October 2015, for which the CPI–U=237.838) exceeds the CPI–U for October of the year in which the Civil Monetary Penalty was last set or adjusted (October 1935, for which the CPI–U=13.7).[26] However, the 2015 Adjustment Act caps civil monetary penalty increases at 150 percent, so the resulting increase is $1,750 and the resulting civil monetary penalty is $2,750.

11. The Commission currently has civil monetary penalty authority of $1,000,000 per violation, per day under section 22 of the NGA.[27] This civil monetary penalty applies to violations of the NGA, and to violations of rules, regulations, restrictions, conditions, and orders promulgated pursuant to the NGA. Congress established this civil monetary penalty in 2005, and neither the Commission nor Congress has adjusted it for inflation. Inflation during the relevant period was 19.397 percent—the percentage by which the CPI–U for October of the prior year (October 2015, for which the CPI–U=237.838) exceeds the CPI–U for October of the year in which the civil monetary penalty was last set or adjusted (October 2005, for which the CPI–U=199.2).[28] The resulting civil monetary penalty is $1,193,970.

12. The Commission currently has civil monetary penalty authority of $1,000,000 per violation, per day, under section 504(b)(6)(A)(i) of the NGPA.[29] This civil monetary penalty applies to violations of any provision of the NGPA and to violations of any rule or order issued under the NGPA, including 18 CFR 358.4, 358.5, 250.16, and 284.13. Congress increased this Civil Monetary Penalty in 2005 from $5,000 to $1,000,000, and the Commission has not adjusted it since. Nor has it made conforming changes to one of its regulations, 18 CFR 250.16(e), to reflect the statutory increase of this civil monetary penalty. Inflation during the relevant period was 19.397 percent—the percentage by which the CPI–U for October of the prior year

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[13] *Id.* (5)(a).

[14] *Id.*

[15] *Id.* (6).

[16] 16 U.S.C. 825o–1(b).

[17] *See* Bureau of Labor Statistics, Table 24. Historical Consumer Price Index for All Urban Consumers (CPI–U): U.S. City Average, All Items—Continued, *http://www.bls.gov/cpi/cpid1602.pdf* (last visited March 22, 2016); *see also* Memorandum from Shaun Donovan, at 6.

[18] The Commission may impose a penalty against a user, owner, or operator of the bulk-power system for a violation of a reliability standard pursuant to FPA section 215(c)(3), 16 U.S.C. 824o(c)(3). The Commission concluded in 2006 that FPA section 316A establishes the limit on such monetary penalties. *See Rule Concerning Certification of the Electric Reliability Organization, and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards,* Order No. 672, 71 FR 8662, 8711 (Feb. 17, 2006).

[19] 16 U.S.C. 823b(c); 18 CFR 385.1602(b).

[20] Electric Consumers Protection Act of 1986, Section 12(c), Pub. L. 99–495, 100 Stat 1243.

[21] *Civil Monetary Penalty Inflation Adjustment Rule,* Order No. 692, 67 FR 52410, 52412 (Aug. 12, 2002) (renumbered from Order No. 890).

[22] *See* Bureau of Labor Statistics, Table 24. Historical Consumer Price Index for All Urban Consumers (CPI–U): U.S. City Average, All Items—Continued, *http://www.bls.gov/cpi/cpid1602.pdf* (last visited March 22, 2016); *see also* Memorandum from Shaun Donovan, at 6.

[23] 16 U.S.C. 825n(a); 18 CFR 385.1602(c).

[24] 49 Stat. 803, 861 (codified at 16 U.S.C. 825n(a)).

[25] *Civil Monetary Penalty Inflation Adjustment Rule,* 67 FR at 52412.

[26] *See* Bureau of Labor Statistics, Table 24. Historical Consumer Price Index for All Urban Consumers (CPI–U): U.S. City Average, All Items—Continued, *http://www.bls.gov/cpi/cpid1602.pdf* (last visited March 22, 2016); *see also* Memorandum from Shaun Donovan, at 6.

[27] 15 U.S.C. 717t–1.

[28] *See* Bureau of Labor Statistics, Table 24. Historical Consumer Price Index for All Urban Consumers (CPI–U): U.S. City Average, All Items—Continued, *http://www.bls.gov/cpi/cpid1602.pdf* (last visited March 22, 2016); *see also* Memorandum from Shaun Donovan, at 6.

[29] 15 U.S.C. 3414(b)(6)(A)(i).

(October 2015, for which the CPI–U=237.838) exceeds the CPI–U for October of the year in which the civil monetary penalty was last set or adjusted (October 2005, for which the CPI–U=199.2).[30] The resulting civil monetary penalty is $1,193,970.

13. Under section 6(10) of the ICA, pipeline carriers, receivers, and trustees are currently subject to a civil penalty for failure or refusal to comply with regulations or orders concerning posting and filing rate schedules issued by the Commission under section 6 of the ICA.[31] Congress established this civil monetary penalty in 1910 at $500 per offense and $25 per day after the first day,[32] and that penalty has not been adjusted since. Inflation during the relevant period was 2,254.832 percent—the percentage by which the CPI–U for October of the prior year (October 2015, for which the CPI–U=237.838) exceeds the CPI–U for October 1914 (for which the CPI–U=10.1).[33] However, the 2015 Adjustment Act caps civil monetary penalty increases at 150 percent, so the base penalty increase is $750, and the per day increase is $37.50. The resulting civil monetary penalty is $1250 per offense and $62.50 per day after the first day.

14. Under section 16(8) of the ICA, pipeline carriers, representatives or agents of carriers, receivers, trustees, or agents of the above are currently subject to a civil penalty for knowing or neglectful failure to comply with orders issued by the Commission under sections 3 (prohibiting undue or unreasonable preferences, advantages, discrimination, or disadvantages), 13 (concerning Commission investigations and power to set aside, after full hearing, any "rate, fare, charge, classification, regulation, or practice caus[ing] any undue or reasonable advantage, preference, or prejudice . . . ."), or 15 (empowering the Commission, after full hearing, to set aside any rate, fare, or charge that "is or will be unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial, or otherwise in violation of any provisions of [the ICA]").[34] Congress initially established this civil monetary penalty in 1910 at $5,000 per offense, per day,[35] and it has not been adjusted since. Inflation during the relevant period was 2,254.832 percent—percentage by which the CPI–U for October of the prior year (October 2015, for which the CPI–U=237.838) exceeds the CPI–U for October 1914 (for which the CPI–U=10.1).[36] However, the 2015 Adjustment Act caps civil monetary penalty increases at 150 percent, so the resulting increase is $7,500 and the resulting civil monetary penalty is $12,500 per day.

15. Under section 19a(k) of the ICA, pipeline carriers, receivers of pipeline carriers, and operating trustees are currently subject to a civil penalty for their failure to comply with Commission's requirements to provide information, or to provide access, in connection with the Commission's valuation of a pipeline carrier's property under section 19(a) of the ICA.[37] Congress established this civil monetary penalty in 1913 at $500 per offense, per day,[38] and it has not been adjusted since. Inflation during the relevant period was 2,254.832 percent—percentage by which the CPI–U for October of the prior year (October 2015, for which the CPI–U=237.838) exceeds the CPI–U for October 1914 (for which the CPI–U=10.1).[39] However, the 2015 Adjustment Act caps civil monetary penalty increases at 150 percent, so the resulting increase is $750 and the resulting civil monetary penalty is $1,250 per offense, per day.

16. Under section 20(7)(a) of the ICA, pipeline carriers and their lessors are currently subject to a civil penalty for their failure to keep or submit certain accounts, records, or memoranda required by the Commission under authority granted in section 20 of the ICA.[40] Congress last adjusted this civil monetary penalty in 1940 at $500 per offense, per day,[41] and it has not been adjusted since. Inflation during the relevant period was 1,598.843 percent—percentage by which the CPI–U for October of the prior year (October 2015, for which the CPI–U=237.838) exceeds the CPI–U for October of the year in which the civil monetary penalty was last set or adjusted (October 1940, for which the CPI–U=14).[42] However, the 2015 Adjustment Act caps civil monetary penalty increases at 150 percent, so the resulting increase is $750 and the resulting civil monetary penalty is $1,250 per offense, per day.

17. The preceding adjustments are reflected in the following table:

| Source | Existing maximum civil monetary penalty | New adjusted civil monetary penalty |
|---|---|---|
| 16 U.S.C. 825o–1(b), Sec. 316A of the Federal Power Act. | $1,000,000 per violation, per day | $1,193,970 per violation, per day. |
| 16 U.S.C. 823b(c), Sec. 31(c) of the Federal Power Act. | $11,000 per violation, per day | $21,563 per violation, per day. |

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[30] *See* Bureau of Labor Statistics, Table 24. Historical Consumer Price Index for All Urban Consumers (CPI–U): U.S. City Average, All Items—Continued, at *http://www.bls.gov/cpi/cpid1602.pdf* (last visited March 22, 2016); *see also* Memorandum from Shaun Donovan, at 6. The Office of Management and Budget has instructed agencies to use the CPI–U for 1914 when calculating the inflation multiplier for penalties established or last adjusted prior to 1914. *See* Memorandum from Shaun Donovan, at 6.

[31] 49 App. U.S.C. 6(10) (1988).

[32] 36 Stat. 539, 548 (codified at 49 App. U.S.C. 6(10) (1988).

[33] *See* Bureau of Labor Statistics, Table 24. Historical Consumer Price Index for All Urban Consumers (CPI–U): U.S. City Average, All Items—Continued, at *http://www.bls.gov/cpi/cpid1602.pdf* (last visited March 22, 2016); *see also* Memorandum from Shaun Donovan, Office of Management and Budget, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 6 (Feb. 24, 2016). The Office of Management and Budget has instructed agencies to use the CPI–U for 1914 when calculating the inflation multiplier for penalties established or last adjusted prior to 1914. *See* Memorandum from Shaun Donovan, at 6.

[34] 49 App. U.S.C. 16(8) (1988).

[35] 36 Stat. 539, 554 (codified at 49 App. U.S.C. 16(8) (1988)).

[36] *See* Bureau of Labor Statistics, Table 24. Historical Consumer Price Index for All Urban Consumers (CPI–U): U.S. City Average, All Items—Continued, at *http://www.bls.gov/cpi/cpid1602.pdf* (last visited March 22, 2016); *see also* Memorandum from Shaun Donovan, at 6. The Office of Management and Budget has instructed agencies to use the CPI–U for 1914 when calculating the inflation multiplier for penalties established or last adjusted prior to 1914. *See* Memorandum from Shaun Donovan, at 6.

[37] 49 App. U.S.C. 19a(k) (1988).

[38] 37 Stat. 701, 703 (codified at 49 App. U.S.C. 19a(k) (1988)).

[39] *See* Bureau of Labor Statistics, Table 24. Historical Consumer Price Index for All Urban Consumers (CPI–U): U.S. City Average, All Items—Continued, at *http://www.bls.gov/cpi/cpid1602.pdf* (last visited March 22, 2016); *see also* Memorandum from Shaun Donovan, at 6. The Office of Management and Budget has instructed agencies to use the CPI–U for 1914 when calculating the inflation multiplier for penalties established or last adjusted prior to 1914. *See* Memorandum from Shaun Donovan, at 6.

[40] 49 App. U.S.C. 20(7)(a) (1988).

[41] 54 Stat. 916, 918 (codified at 49 App. U.S.C. 20(7)(a) (1988)).

[42] *See* Bureau of Labor Statistics, Table 24. Historical Consumer Price Index for All Urban Consumers (CPI–U): U.S. City Average, All Items—Continued, at *http://www.bls.gov/cpi/cpid1602.pdf* (last visited March 22, 2016); *see also* Memorandum from Shaun Donovan, at 6.

| Source | Existing maximum civil monetary penalty | New adjusted civil monetary penalty |
|---|---|---|
| 16 U.S.C. 825n(a), Sec. 315(a) of the Federal Power Act. | $ 1,100 per violation | $2,750 per violation. |
| 15 U.S.C. 717t–1, Sec. 22 of the Natural Gas Act. | $1,000,000 per violation, per day | $1,193,970 per violation, per day. |
| 15 U.S.C. 3414(b)(6)(A)(i), Sec. 504(b)(6)(A)(i) of the Natural Gas Policy Act of 1978. | $1,000,000 per violation, per day | $1,193,970 per violation, per day. |
| 49 App. U.S.C. 6(10) (1988), Sec. 6(10) of the Interstate Commerce Act. | $500 per offense and $25 per day after the first day. | $1,250 per offense and $62.50 per day after the first day. |
| 49 App. U.S.C. 16(8) (1988), Sec. 16(8) of the Interstate Commerce Act. | $5,000 per violation, per day | $12,500 per violation, per day. |
| 49 App. U.S.C. 19a(k) (1988), Sec. 19a(k) of the Interstate Commerce Act. | $500 per offense, per day | $1,250 per offense, per day. |
| 49 App. U.S.C. 20(7)(a) (1988), Sec. 20(7)(a) of the Interstate Commerce Act. | $500 per offense, per day | $1,250 per offense, per day. |

## III. Administrative Findings

18. Under the Administrative Procedure Act, a final rule may be issued without prior public notice and comment if the agency finds that notice and comment are impractical, unnecessary, or contrary to the public interest.[43] The Commission finds that prior notice and comment for this rulemaking would be impractical, unnecessary, and contrary to the public interest. The Commission is required by law to adopt an interim final rule adjusting its civil monetary penalties for inflation. Moreover, the formula for the civil monetary penalty adjustment is prescribed by Congress and is not subject to the Commission's discretion. Because the Commission is required by law to undertake these inflation adjustments, and because the Commission lacks discretion with respect to the method and amount of the adjustments, prior notice and comment would be impractical, unnecessary, and contrary to the public interest.

## IV. Regulatory Flexibility Statement

19. The Regulatory Flexibility Act, as amended, requires agencies to certify that rules promulgated under their authority will not have a significant economic impact on a substantial number of small businesses.[44] The requirements of the Regulatory Flexibility Act apply only to rules promulgated following notice and comment.[45] The requirements of the Regulatory Flexibility Act do not apply to this rulemaking because the Commission is issuing this interim final rule without notice and comment.

## V. Paperwork Reduction Act

20. This rule does not require the collection of information. The Commission is therefore not required to submit this rule for review to the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995.[46]

## VI. Document Availability

21. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and print the contents of this document via the Internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

22. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and downloading. To access this document in eLibrary, type the docket number (excluding the last three digits) in the docket number field.

23. User assistance is available for eLibrary and the Commission's Web site during normal business hours from the Commission's Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659, *public.referenceroom@ferc.gov.*

## VII. Effective Date and Congressional Notification

24. For the same reasons the Commission has determined that public notice and comment are unnecessary, impractical, and contrary to the public interest, the Commission finds good cause to adopt an effective date that is less than 30 days after the date of publication in the **Federal Register** pursuant to the Administrative Procedure Act,[47] and therefore, the regulation is effective upon publication in the **Federal Register**.

25. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, that this rule is not a "major rule" as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996. This Final Rule is being submitted to the Senate, House, and Government Accountability Office.

## List of Subjects

*18 CFR Part 250*

Natural gas, Reporting and recordkeeping requirements.

*18 CFR Part 385*

Administrative practice and procedure, Electric power, Penalties, Pipelines, Reporting and recordkeeping requirements.

By the Commission.

Issued: June 29, 2016.

**Kimberly D. Bose,**
*Secretary.*

In consideration of the foregoing, the Commission amends parts 250 and 385, Chapter I, Title 18, *Code of Federal Regulations* as follows:

## PART 250—FORMS

■ 1. The authority citation for part 250 is revised to read as follows:

**Authority:** 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352; 28 U.S.C. 2461 note.

■ 2. Amend § 250.16 by revising paragraph (e)(1) to read as follows:

### § 250.16 Format of compliance plan transportation services and affiliate transactions.

* * * * *

(e) *Penalty for failure to comply.* (1) Any person who transports gas for others pursuant to Subparts B or G of

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[43] 5 U.S.C. 553(b)(3)(B).

[44] 5 U.S.C. 601 *et seq.*

[45] 5 U.S.C. 603, 604.

[46] 44 U.S.C. 3507(d).

[47] 5 U.S.C. 553(d)(3).

Part 284 of this chapter and who knowingly violates the requirements of §§ 358.4 and 358.5, § 250.16, or § 284.13 of this chapter will be subject, pursuant to sections 311(c), 501, and 504(b)(6) of the Natural Gas Policy Act of 1978, to a civil penalty, which the Commission may assess, of not more than $1,193,970 for any one violation.

* * * * *

## PART 385—RULES OF PRACTICE AND PROCEDURE

■ 3. The authority citation for part 385 is revised to read as follows:

**Authority:** 5 U.S.C. 551–557; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C. 791a–825v, 2601–2645; 28 U.S.C. 2461; 31 U.S.C. 3701, 9701; 42 U.S.C. 7101–7352, 16441, 16451–16463; 49 U.S.C. 60502; 49 App. U.S.C. 1–85 (1988); 28 U.S.C. 2461 note (1990); 28 U.S.C. 2461 note (2015).

■ 4. Revise § 385.1504(a) to read as follows:

### § 385.1504 Maximum civil penalty (Rule 1504).

(a) Except as provided in paragraph (b) of this section, the Commission may assess a civil penalty of up to $21,563 for each day that the violation continues.

* * * * *

■ 5. Revise § 385.1601 to read as follows:

### § 385.1601 Scope and purpose (Rule 1601).

The purpose of this subpart is to make inflation adjustments to the civil monetary penalties provided by law within the jurisdiction of the Commission. These penalties shall be subject to review and adjustment as necessary at least every year in accordance with the Federal Civil Penalties Inflation Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

■ 6. Revise § 385.1602 to read as follows:

### § 385.1602 Civil penalties, as adjusted (Rule 1602).

The current inflation-adjusted civil monetary penalties provided by law within the jurisdiction of the Commission are:

(a) 15 U.S.C. 3414(b)(6)(A)(i), Natural Gas Policy Act of 1978: $1,193,970 per day.

(b) 16 U.S.C. 823b(c), Federal Power Act: $21,563 per day.

(c) 16 U.S.C. 825n(a), Federal Power Act: $2,750.

(d) 16 U.S.C. 825o–1(b), Federal Power Act: $1,193,970 per day.

(e) 15 U.S.C. 717t–1, Natural Gas Act: $1,193,970 per day.

(f) 49 App. U.S.C. 6(10) (1988), Interstate Commerce Act: $1,250 per offense and $62.50 per day after the first day.

(g) 49 App. U.S.C. 16(8) (1988), Interstate Commerce Act: $12,500 per day.

(h) 49 App. U.S.C. 19a(k) (1988), Interstate Commerce Act: $1,250 per day.

(i) 49 App. U.S.C. 20(7)(a) (1988), Interstate Commerce Act: $1,250 per day.

[FR Doc. 2016–15947 Filed 7–5–16; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF THE INTERIOR

## National Indian Gaming Commission

## 25 CFR Part 575

## Civil Penalty Inflation Adjustment

**AGENCY:** National Indian Gaming Commission.

**ACTION:** Interim final rule.

**SUMMARY:** In compliance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and Office of Management and Budget (OMB) guidance, this rule adjusts the level of the civil monetary penalty, contained in the National Indian Gaming Commission's (NIGC or Commission) regulation, with an initial "catch-up" adjustment.

**DATES:** This interim final rule will have an effective date of August 1, 2016.

**FOR FURTHER INFORMATION CONTACT:** Contact Armando J. Acosta, Senior Attorney, Office of General Counsel, National Indian Gaming Commission, at (202) 632–7003; fax (202) 632–7066 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:**

### I. Background

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Sec. 701 of Pub. L. 114–74) (the Act). The Act requires federal agencies to adjust the level of civil monetary penalties with an initial "catch-up" adjustment through an interim final rulemaking and then make subsequent annual adjustments for inflation. A civil monetary penalty is any assessment with a dollar amount that is levied for a violation of a federal civil statute or regulation, and is assessed or enforceable through a civil action in federal court or an administrative proceeding.

### II. Calculation of Adjustment

The OMB issued guidance on calculating the catch-up adjustment. *See* February 24, 2016, Memorandum for the Heads of Executive Departments and Agencies, from Shaun Donovan, Director, Office of Management and Budget, Subject: *Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.* Under this guidance, the Commission has identified one applicable civil monetary penalty and calculated the catch-up adjustment. This rule adjusts the level of the civil monetary penalty contained in 25 CFR 575.4 ("The Chairman may assess a civil fine, not to exceed $25,000 per violation, against a tribe, management contractor, or individual operating Indian gaming for each notice of violation . . ."). The OMB provided to agencies a table of multipliers to adjust the penalty level based on the year that the penalty was established or last adjusted by statute or regulation. The multiplier for 1988 (when the Indian Gaming Regulatory Act was enacted) is 1.97869 ($25,000 × 1.97869 = $49,467).

### III. Regulatory Matters

*Regulatory Planning and Review*

This interim final rule is not a significant rule and OMB has reviewed this rule under Executive Order 12866. This rule provides an initial catch-up adjustment of penalties to account for inflation.

(1) This rule will not have an effect of $100 million or more on the economy or will not adversely affect, in a material way, the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not involve entitlements, grants, user fees, or loan programs or the rights or obligations of recipients.

(4) This regulatory change does not raise novel legal or policy issues.

*Regulatory Flexibility Act*

The Commission certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because the rule makes adjustments for inflation.

*Small Business Regulatory Enforcement Fairness Act*

This interim final rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. It will not result in the expenditure by state, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year. The rule will not result in a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions. Nor will this rule have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based enterprises.

*Unfunded Mandates Reform Act*

This interim final rule does not impose an unfunded mandate of more than $100 million per year on state, local, or tribal governments or the private sector. The rule also does not have a significant or unique effect on state, local, or tribal governments or the private sector. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

*Takings*

Under the criteria in Executive Order 12630, this interim final rule does not affect individual property rights protected by the Fifth Amendment nor does it involve a compensable "taking." Thus, a takings implication assessment is not required.

*Federalism*

Under the criteria in Executive Order 13132, this interim final rule has no substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

*Civil Justice Reform*

This interim final rule complies with the requirements of Executive Order 12988. Specifically, this rule has been reviewed to eliminate errors and ambiguity and written to minimize litigation. It is written in clear language and contains clear legal standards.

*Consultation with Indian Tribes*

In accordance with the President's memorandum of April 29, 1994, *Government-to-Government Relations with Native American Tribal Governments,* Executive Order 13175 (59 FR 22951, November 6, 2000), the Commission has determined that consultations with Indian gaming tribes is not practicable, as Congress has mandated that the civil penalty adjustments in the Act be implemented no later than August 1, 2016.

*Paperwork Reduction Act*

This interim final rule does not affect any information collections under the Paperwork Reduction Act.

*National Environmental Policy Act*

This interim final rule does not constitute a major federal action significantly affecting the quality of the human environment.

*Information Quality Act*

In developing this interim final rule, the Commission did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Pub. L. 106–554).

*Effects on the Energy Supply*

This interim final rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

*Clarity of this Regulation*

The Commission is required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule that the Commission publishes must:

(a) Be logically organized;

(b) use the active voice to address readers directly;

(c) use clear language rather than jargon;

(d) be divided into short sections and sentences; and

(e) use lists and tables wherever possible.

*Required Determinations Under the Administrative Procedure Act*

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 requires agencies to adjust penalties for the catch-up adjustment through an interim final rulemaking. Therefore, the Commission is not required to complete a notice and comment process prior to promulgation.

**List of Subjects in 25 CFR Part 575**

Administrative practice and procedure, Gaming, Indian lands, Penalties.

For the reasons set forth in the preamble, the Commission amends 25 CFR part 575 as follows:

## PART 575—CIVIL FINES

■ 1. The authority citation for part 575 is revised to read as follows:

**Authority:** 25 U.S.C. 2705(a), 2706, 2713, 2715; and Sec. 701, Pub. L. 114–74, 129 Stat. 599.

■ 2. Amend the introductory text of § 575.4 by removing "$25,000" and adding in its place "$49,467".

Dated: June 28, 2016.

**Jonodev O. Chaudhuri,**  
*Chairman,*

**Kathryn Isom-Clause,**  
*Vice Chairwoman,*

**E. Sequoyah Simermeyer,**  
*Associate Commissioner.*

[FR Doc. 2016–16009 Filed 7–5–16; 8:45 am]

**BILLING CODE 7565–01–P**

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## DEPARTMENT OF JUSTICE

## Office of the Attorney General

## 28 CFR Part 11

**[JMD Docket No. 152; A.G. Order No. 3689–2016]**

**RIN 1105–AB44**

## Department of Justice Debt Collection Regulations

**AGENCY:** Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** This rule amends the regulations that govern debt collection at the Department of Justice (Department) to bring the regulations into conformity with government-wide standards, to update or delete obsolete references, and to make other clarifying or technical changes.

**DATES:** Effective August 5, 2016.

**FOR FURTHER INFORMATION CONTACT:** Dennis Dauphin, Director, Debt Collection Management Staff, or Morton J. Posner, Assistant General Counsel, Justice Management Division, U.S. Department of Justice, Washington, DC 20530, (202) 514–5343 or (202) 514–3452.

**SUPPLEMENTARY INFORMATION:**

On February 18, 2015, the Department published a proposed rule to revise its existing debt collection regulations. *See* 80 FR 8580–01. Following a public comment period, the Department received two comments. One commenter generally endorsed the rulemaking proposal. Another commenter recommended editorial revisions to clarify the proposed rule without making substantive changes. After due consideration, the Department adopts several of that commenter's suggestions.

The Department also makes other clarifying changes to the proposed rule. In § 11.11(a), the definition of "debt" will clarify that it is an amount determined to be owed to the United States by an appropriate official of the Federal Government "or by a court of competent jurisdiction," and that it includes "any amounts owed to the United States for the benefit of a third party." In § 11.11(e), the definition of "legally enforceable" will clarify that there has been a final agency "or court" determination that a debt is due and collectible by offset. Section 11.21(a) will refer to administrative wage garnishment as a tool to collect delinquent nontax debt owed to the United States "through operation of Department programs." Similarly, the definition of "agency" in § 11.21(c) will refer specifically to the Department. The headings of § 11.21(f)(3) and (f)(4) are also revised for clarity.

### Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The Department proposes to collect delinquent nontax debt owed it through an administrative wage garnishment (AWG) process. When an AWG order is issued, employers (including small businesses) that employ workers from whom the Department is collecting a delinquent debt will be required to certify the employee's employment and earnings, garnish wages, and remit withheld wages to the Department. Such procedures are mandated by Department of the Treasury regulations issued to implement the Debt Collection Improvement Act. Employment and salary information is contained in an employer's payroll records. Therefore, it will not take a significant amount of time or result in a significant cost for an employer to certify employment and earnings. Employers of delinquent debtors may be subject at any time to garnishment orders issued by a court to collect delinquent debts of their employees owed to governmental or private creditors. The addition of an AWG process will not significantly increase the burden to which employers are already subject to collect the delinquent debt of their employees.

### Executive Orders 12866 and 13563—Regulatory Review

This regulation has been drafted and reviewed in accordance with Executive Order 12866, "Regulatory Planning and Review," section 1(b), Principles of Regulation, and in accordance with Executive Order 13563, "Improving Regulation and Regulatory Review," section 1(b), General Principles of Regulation.

The Department of Justice has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly this rule has not been reviewed by the Office of Management and Budget.

Further, both Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Department has assessed the costs and benefits of this regulation and believes that the regulatory approach selected maximizes net benefits.

### Executive Order 12988—Civil Justice Reform

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

### Executive Order 13132—Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

### Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

### Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

### Paperwork Reduction Act

This rule imposes no information collection or record keeping requirements.

### List of Subjects in 28 CFR Part 11

Administrative practice and procedure, Claims, Debt collection, Government contracts, Government employees, Income taxes, Lawyers, Wages.

Accordingly, by virtue of the authority vested in me as Attorney General, including 5 U.S.C. 301 and 28 U.S.C. 509 and 510, part 11 of title 28 of the Code of Federal Regulations is amended as follows:

## PART 11—DEBT COLLECTION

■ 1. The authority citation for part 11 is revised to read as follows:

**Authority:** 5 U.S.C. 301, 5514; 28 U.S.C. 509, 510; 31 U.S.C. 3711, 3716, 3718, 3720A, 3720D.

## Subpart A—Retention of Private Counsel for Debt Collection

### § 11.1 [Amended]

■ 2. Amend § 11.1 as follows:

■ a. Remove the word "pilot" from the first sentence; and

■ b. Remove the word "Adminstration" and add in its place the word "Administration".

■ 3. Amend § 11.2 as follows:

■ a. Revise the section heading;

■ b. In the first two sentences, remove the word "pilot";

■ c. In the third sentence, remove the words "Contracting Officer's Technical Representative (COTR)" and add in their place the words "Contracting Officer's Representative (COR)"; and

■ d. In the fourth sentence, remove the term "COTRs" and add in its place the term "CORs".

The revision reads as follows:

### § 11.2 Private counsel debt collection program.

* * * * *

### § 11.3 [Amended]

■ 4. Amend § 11.3 as follows:

■ a. In the first sentence, remove the words "the Federal Property and Administrative Services Act of 1949, 41 U.S.C. 251 *et seq.*" and add in their place the words "41 U.S.C. 3307."

■ b. In the second sentence, add the phrase "and law firms that are qualified HUBZone small business concerns" after the phrase "socially and economically disadvantaged individuals";

■ c. In the second and third sentences, remove the word "pilot" and add in its place the word "program"; and

■ d. In the third sentence, remove the words "the Commerce Business Daily" and add in their place the term "FedBizOpps".

## Subpart B—Administration of Debt Collection

### § 11.4 [Amended]

■ 5. Amend § 11.4 as follows:

■ a. Remove the second sentence of paragraph (a); and

■ b. In paragraph (b)(3)(i), add the number "1" after the words "26 U.S.C."

■ 6. Revise the heading of subpart C to read as follows:

## Subpart C—Collection of Debts by Administrative and Tax Refund Offset

■ 7. Revise § 11.10 to read as follows:

### § 11.10 [Amended]

(a) The provisions of 31 U.S.C. 3716 allow the head of an agency to collect a debt through administrative offset. The provisions of 31 U.S.C. 3716 and 3720A authorize the Secretary of the Treasury, acting through the Bureau of the Fiscal Service (BFS) and other Federal disbursing officials, to offset certain payments to collect delinquent debts owed to the United States. This subpart authorizes the collection of debts owed to the United States by persons, organizations, and other entities by offsetting Federal and certain state payments due to the debtor. It allows for collection of debts that are past due and legally enforceable through offset, regardless of whether the debts have been reduced to judgment.

(b) Nothing in this subpart precludes the Department from pursuing other debt collection procedures to collect a debt that has been submitted to the Department of the Treasury under this subpart. The Department may use such debt collection procedures separately or in conjunction with the offset procedures of this subpart.

■ 8. Amend § 11.11 by revising paragraphs (a) and (b), and adding a paragraph (e) to read as follows:

### § 11.11 Definitions.

(a) *Debt.* Debt means any amount of funds or property that an appropriate official of the Federal Government or a court of competent jurisdiction determines is owed to the United States, including any amounts owed to the United States for the benefit of a third party, by a person, organization, or entity other than another Federal agency. For purposes of this section, the term debt does not include debts arising under the Internal Revenue Code of 1986 (26 U.S.C. 1 *et seq.*), the tariff laws of the United States, or the Social Security Act (42 U.S.C. 301 *et seq.*), except that "delinquent amounts" as defined in sections 204(f) and 1631(b)(4) of such Act (42 U.S.C. 404(f) and 1383(b)(4)(A), respectively) are included in the term debt, as are "administrative offset[s]" collectible pursuant to 31 U.S.C. 3716(c). Debts that have been referred to the Department of Justice by other agencies for collection are included in this definition.

(b) *Past due.* A past due debt means a debt that has not been paid or otherwise resolved by the date specified in the initial demand for payment, or in an applicable agreement or other instrument (including a post-delinquency repayment agreement), unless other payment arrangements satisfactory to the Department have been made. Judgment debts remain past due until paid in full.

* * * * *

(e) *Legally enforceable.* Legally enforceable means that there has been a final agency or court determination that the debt, in the amount stated, is due, and there are no legal bars to collection by offset.

■ 9. Amend § 11.12 as follows:

■ a. Remove paragraph (b)(4);

■ b. In paragraph (d)(5), remove the number "65" and add in its place the number "60";

■ c. In paragraph (d)(6) and paragraph (e), remove the term "IRS" and add in its place the term "BFS";

■ d. In the second sentence of paragraph (d)(6), remove the word "of" the second time it occurs and add in its place the word "or"; and

■ e. Revise the section heading and paragraphs (a), (b)(2), (b)(3), (c), and (f) to read as follows:

### § 11.12 Centralized offset.

(a) The Department must refer any legally enforceable debt more than 120 days past-due to BFS for administrative offset under 31 U.S.C. 3716(c)(6). The Department must refer any past-due, legally enforceable debt to BFS for tax refund offset purposes pursuant to 31 U.S.C. 3720A(a) at least once a year. Before referring debts for offset, the Department must certify to BFS compliance with the provisions of 31 U.S.C. 3716(a) and 3720A(b). There is no time limit on when a debt can be collected by offset.

(b) * * *

(2) The Department intends to refer the debt to BFS for offset purposes;

(3) Before the debt is referred to BFS for offset purposes, the debtor has 60 days from the date of notice to present evidence that all or part of the debt is not past due, that the amount is not the amount currently owed, that the outstanding debt has been satisfied, or, if the debt is a judgment debt, that the debt has been satisfied, or that collection action on the debt has been stayed.

* * * * *

(c) If the debtor neither pays the amount due nor presents evidence that the amount is not past due or is satisfied or that collection action is stayed, the Department will refer the debt to BFS for offset purposes.

* * * * *

(f) If more than one debt is owed, payments eligible for offset will be applied in the order in which the debts became past due.

■ 10. Add § 11.13 to read as follows:

### § 11.13 Non-centralized offset.

(a) When offset under § 11.12 of this part is not available or appropriate, the Department may collect past-due, legally enforceable debts through non-centralized administrative offset. See 31 CFR 901.3(c). In these cases, the Department may offset a payment internally or make an offset request directly to a Federal payment agency.

(b) At least 30 days before offsetting a payment internally or requesting a Federal payment agency to offset a payment, the Department will send notice to the debtor in accordance with the requirements of 31 U.S.C. 3716(a). When referring a debt for offset under this paragraph (b), the Department will certify, in writing, that the debt is valid, delinquent, legally enforceable, and that there are no legal bars to collection by offset. In addition, the Department will certify its compliance with these regulations concerning administrative offset. See 31 CFR 901.3(c)(2)(ii).

■ 11. Add subpart D to read as follows:

## Subpart D—Administrative Wage Garnishment

### § 11.21 Administrative wage garnishment.

(a) *Purpose.* In accordance with the Department of the Treasury government-wide regulation at 31 CFR 285.11, this section provides procedures for the Department of Justice (Department) to collect money from a debtor's disposable pay by means of administrative wage garnishment to satisfy delinquent nontax debt owed to the United States through operation of Department programs.

(b) *Scope.* (1) This section shall apply notwithstanding any provision of State law.

(2) Nothing in this section precludes the compromise of a debt or the suspension or termination of collection action in accordance with applicable law. See, for example, the Federal Claims Collection Standards (FCCS), 31 CFR parts 900–904.

(3) The receipt of payments pursuant to this section does not preclude the Department from pursuing other debt collection remedies, including the offset of Federal payments to satisfy delinquent nontax debt owed to the United States. The Department may pursue such debt collection remedies separately or in conjunction with administrative wage garnishment.

(4) This section does not apply to the collection of delinquent nontax debt owed to the United States from the wages of Federal employees from their Federal employment. Federal pay is subject to the Federal salary offset procedures set forth in 5 U.S.C. 5514 and other applicable laws.

(5) Nothing in this section requires the Department to duplicate notices or administrative proceedings required by contract or other laws or regulations.

(c) *Definitions.* As used in this section the following definitions shall apply:

*Agency* means the Department of Justice.

*Business day* means Monday through Friday. For purposes of computation, the last day of the period will be included unless it is a Federal legal holiday.

*Day* means calendar day. For purposes of computation, the last day of the period will be included unless it is a Saturday, a Sunday, or a Federal legal holiday.

*Debt* or *claim* means any amount of money, funds or property that an appropriate official of the Federal Government determines is owed to the United States by an individual, including debt administered by a third party as an agent for the Federal Government.

*Debtor* means an individual who owes a delinquent nontax debt to the United States.

*Delinquent nontax debt* means any nontax debt that has not been paid by the date specified in the agency's initial written demand for payment, or applicable agreement, unless other satisfactory payment arrangements have been made. For purposes of this section, the terms "debt" and "claim" are synonymous and refer to delinquent nontax debt.

*Disposable pay* means that part of the debtor's compensation (including, but not limited to, salary, bonuses, commissions, and vacation pay) from an employer remaining after the deduction of health insurance premiums and any amounts required by law to be withheld. For purposes of this section, "amounts required by law to be withheld" include amounts for deductions such as Social Security taxes and withholding taxes, but do not include any amount withheld pursuant to a court order.

*Employer* means a person or entity that employs the services of others and that pays their wages or salaries. The term employer includes, but is not limited to, State and local Governments, but does not include an agency of the Federal Government.

*Evidence of service* means information retained by the agency indicating the nature of the document to which it pertains, the date of mailing of the document, and to whom the document is being sent. Evidence of service may be retained electronically so long as the manner of retention is sufficient for evidentiary purposes.

*Garnishment* means the process of withholding amounts from an employee's disposable pay and the paying of those amounts to a creditor in satisfaction of a withholding order.

*Withholding order* means any order for withholding or garnishment of pay issued by the agency, or judicial or administrative body. For purposes of this section, the terms "wage garnishment order" and "garnishment order" have the same meaning as "withholding order."

(d) *General rule.* Whenever the agency determines that a delinquent debt is owed by an individual, the agency may initiate proceedings administratively to garnish the wages of the delinquent debtor.

(e) *Notice requirements.* (1) At least 30 days before initiating garnishment proceedings, the agency shall mail, by first class mail, to the debtor's last known address, a written notice informing the debtor of:

(i) The nature and amount of the debt;

(ii) The intention of the agency to initiate proceedings to collect the debt through deductions from pay until the debt and all accumulated interest, penalties, and administrative costs are paid in full; and

(iii) An explanation of the debtor's rights, including those set forth in paragraph (e)(2) of this section, and the time frame within which the debtor may exercise those rights.

(2) The debtor shall be afforded the opportunity:

(i) To inspect and copy agency records related to the debt;

(ii) To enter into a written repayment agreement with the agency under terms agreeable to the agency; and

(iii) For a hearing in accordance with paragraph (f) of this section concerning the existence or the amount of the debt or the terms of the proposed repayment schedule under the garnishment order. However, the debtor is not entitled to a hearing concerning the terms of the proposed repayment schedule if these terms have been established by written agreement under paragraph (e)(2)(ii) of this section.

(3) The agency will retain evidence of service indicating the date of mailing of the notice.

(f) *Hearing*—(1) *Request for hearing.* If the debtor submits a written request for a hearing concerning the existence or amount of the debt or the terms of the repayment schedule (for those repayment schedules not established by written agreement under paragraph (e)(2)(ii) of this section), the agency shall provide a hearing, which at the agency's option may be oral or written.

(2) *Type of hearing or review.* (i) For purposes of this section, whenever the agency is required to afford a debtor a hearing, the agency shall provide the debtor with a reasonable opportunity for an oral hearing when the agency determines that the issues in dispute cannot be resolved by review of the documentary evidence, as, for example, when the validity of the claim turns on the issue of credibility or veracity.

(ii) If the agency determines that an oral hearing is appropriate, the time and location of the hearing shall be established by the agency. An oral hearing may, at the debtor's option, be conducted either in person or by telephone conference. All travel expenses incurred by the debtor in connection with an in-person hearing will be borne by the debtor. All telephonic charges incurred during the hearing will be the responsibility of the agency.

(iii) In those cases where an oral hearing is not provided under this section, the agency shall nevertheless accord the debtor a ''paper hearing,'' that is, the agency will decide the issues in dispute based upon a review of the written record. The agency will establish a reasonable deadline for the submission of evidence.

(3) *Effect of agency receipt of hearing request within 15 business days of notice.* Subject to paragraph (f)(12) of this section, if the debtor's written request is received by the agency on or before the 15th business day following the mailing of the notice described in paragraph (e)(1) of this section, the agency shall not issue a withholding order under paragraph (g) of this section until the agency provides the debtor the requested hearing and renders a decision in accordance with paragraphs (f)(9) and (10) of this section.

(4) *Effect of agency receipt of hearing request after 15 business days of notice.* If the debtor's written request is received by the agency after the 15th business day following the mailing of the notice described in paragraph (e)(1) of this section, the agency shall provide a hearing to the debtor. However, the agency will not delay issuance of a withholding order unless the agency determines that the delay in filing the request was caused by factors over which the debtor had no control, or the agency receives information that the agency believes justifies a delay or cancellation of the withholding order.

(5) *Hearing official.* A hearing official may be any qualified individual, as determined by the head of the agency, including an administrative law judge.

(6) *Procedure.* After the debtor requests a hearing, the hearing official shall notify the debtor of:

(i) The date and time of a telephonic hearing;

(ii) The date, time, and location of an in-person oral hearing; or

(iii) The deadline for the submission of evidence for a written hearing.

(7) *Burden of proof.* (i) The agency will have the initial burden of proving, by a preponderance of the evidence, the existence or amount of the debt.

(ii) If the agency satisfies its initial burden, and the debtor disputes the existence or amount of the debt, the debtor must prove, by a preponderance of the evidence, that no debt exists or that the amount of the debt is incorrect. In addition, the debtor may present evidence that the terms of the repayment schedule are unlawful or would cause a financial hardship to the debtor, or that collection of the debt may not be pursued due to operation of law.

(8) *Record.* The hearing official must maintain a summary record of any hearing provided under this section. A hearing is not required to be a formal evidentiary-type hearing. However, witnesses who testify in in-person or telephonic hearings will do so under oath or affirmation.

(9) *Date of decision.* The hearing official shall issue a written opinion stating the decision as soon as practicable, but not later than 60 days after the date on which the request for such hearing was received by the agency. If an agency is unable to provide the debtor with a hearing and render a decision within 60 days after the receipt of the request for such hearing:

(i) The agency may not issue a withholding order until the hearing is held and a decision rendered; or

(ii) If the agency had previously issued a withholding order to the debtor's employer, the agency must suspend the withholding order beginning on the 61st day after the receipt of the hearing request and continuing until a hearing is held and a decision is rendered.

(10) *Content of decision.* The written decision shall include:

(i) A summary of the facts presented;

(ii) The hearing official's findings, analysis, and conclusions; and

(iii) The terms of any repayment schedules, if applicable.

(11) *Final agency action.* The hearing official's decision will be final agency action for purposes of judicial review under the Administrative Procedure Act (5 U.S.C. 701 *et seq.*).

(12) *Failure to appear.* In the absence of good cause shown, a debtor who fails to appear at a hearing scheduled pursuant to paragraph (f)(3) of this section will be deemed as not having timely filed a request for a hearing.

(g) *Wage garnishment order.* (1) Unless the agency receives information that the agency believes justifies a delay or cancellation of the withholding order, the agency will send, by first class mail, a withholding order to the debtor's employer:

(i) Within 30 days after the debtor fails to make a timely request for a hearing (*i.e.,* within 15 business days after the mailing of the notice described in paragraph (e)(1) of this section), or,

(ii) If the debtor makes a timely request for a hearing, within 30 days after a final decision is made by the agency to proceed with garnishment, or

(iii) As soon as reasonably possible thereafter.

(2) The withholding order sent to the employer under paragraph (g)(1) of this section shall be in a form prescribed by the Secretary of the Treasury. The withholding order shall contain the signature of, or the image of the signature of, the head of the agency or that person's delegatee. The order shall contain only the information necessary for the employer to comply with the withholding order. Such information includes the debtor's name, address, and Social Security Number, as well as instructions for withholding and information as to where payments should be sent.

(3) The agency will retain evidence of service indicating the date of mailing of the order.

(h) *Certification by employer.* Along with the withholding order, the agency shall send to the employer a certification in a form prescribed by the Secretary of the Treasury. The employer shall complete and return the certification to the agency within the time frame prescribed in the instructions to the form. The certification will address matters such as information about the debtor's employment status and disposable pay available for withholding.

(i) *Amounts withheld.* (1) After receipt of the garnishment order issued under this section, the employer shall deduct from all disposable pay paid to the applicable debtor during each pay period the amount of garnishment described in paragraph (i)(2) of this section.

(2)(i) Subject to the provisions of paragraphs (i)(3) and (4) of this section, the amount of garnishment shall be the lesser of:

(A) The amount indicated on the garnishment order up to 15% of the debtor's disposable pay; or

(B) The amount set forth in 15 U.S.C. 1673(a)(2) (Restriction on Garnishment). That amount is the amount by which a debtor's disposable pay exceeds an amount equivalent to thirty times the Federal minimum wage. See 29 CFR 870.10.

(3) When a debtor's pay is subject to withholding orders with priority the following shall apply:

(i) Unless otherwise provided by Federal law, withholding orders issued under this section shall be paid in the amounts set forth under paragraph (i)(2) of this section and shall have priority over withholding orders that are served later in time. Notwithstanding the foregoing, withholding orders for family support shall have priority over withholding orders issued under this section.

(ii) If amounts are being withheld from a debtor's pay pursuant to a withholding order served on an employer before a withholding order issued pursuant to this section, or if a withholding order for family support is served on an employer at any time, the amounts withheld pursuant to the withholding order issued under this section shall be the lesser of:

(A) The amount calculated under paragraph (i)(2) of this section, or

(B) An amount equal to 25% of the debtor's disposable pay less the amount(s) withheld under the withholding order(s) with priority.

(iii) If a debtor owes more than one debt to the agency, the agency may issue multiple withholding orders if the total amount garnished from the debtor's pay for such orders does not exceed the amount set forth in paragraph (i)(2) of this section.

(4) An amount greater than that set forth in paragraphs (i)(2) and (3) of this section may be withheld upon the written consent of the debtor.

(5) The employer shall promptly pay to the agency all amounts withheld under the withholding order issued pursuant to this section.

(6) An employer shall not be required to vary its normal pay and disbursement cycles in order to comply with the withholding order.

(7) Any assignment or allotment by an employee of the employee's earnings shall be void to the extent it interferes with or prohibits execution of the withholding order issued under this section, except for any assignment or allotment made pursuant to a family support judgment or order.

(8) The employer shall withhold the appropriate amount from the debtor's wages for each pay period until the employer receives notification from the agency to discontinue wage withholding. The garnishment order shall indicate a reasonable period of time within which the employer is required to commence wage withholding.

(j) *Exclusions from garnishment.* The agency may not garnish the wages of a debtor who it knows has been involuntarily separated from employment until the debtor has been reemployed continuously for at least 12 months. To qualify for this exclusion, upon the request of the agency, the debtor must inform the agency of the circumstances surrounding an involuntary separation from employment.

(k) *Financial hardship.* (1) A debtor whose wages are subject to a wage withholding order under this section, may, at any time, request a review by the agency of the amount garnished, based on materially changed circumstances such as disability, divorce, or catastrophic illness that result in financial hardship.

(2) A debtor requesting a review under paragraph (k)(1) of this section shall submit the basis for claiming that the current amount of garnishment results in a financial hardship to the debtor, along with supporting documentation. The agency shall consider any information submitted in accordance with procedures and standards established by the agency.

(3) If the agency finds financial hardship, it shall downwardly adjust, by an amount and for a period of time agreeable to the agency, the amount garnished to reflect the debtor's financial condition. The agency will notify the employer of any adjustments to the amounts to be withheld.

(l) *Ending garnishment.* (1) Once the agency has fully recovered the amounts owed by the debtor, including interest, penalties, and administrative costs consistent with the FCCS, the agency shall send the debtor's employer notification to discontinue wage withholding.

(2) At least annually, an agency shall review its debtors' accounts to ensure that accounts that have been paid in full are no longer subject to garnishment.

(m) *Actions prohibited by the employer.* An employer may not discharge, refuse to employ, or take disciplinary action against the debtor due to the issuance of a withholding order under this section.

(n) *Refunds.* (1) If a hearing official, at a hearing held pursuant to paragraph (f)(2) of this section, determines that a debt is not legally due and owing to the United States, the agency shall promptly refund any amount collected by means of administrative wage garnishment.

(2) Unless required by Federal law or contract, refunds under this section shall not bear interest.

(o) *Right of action.* The agency may sue any employer for any amount that the employer fails to withhold from wages owed and payable to an employee in accordance with paragraphs (g) and (i) of this section. However, a suit may not be filed before the termination of the collection action involving a particular debtor, unless earlier filing is necessary to avoid expiration of any applicable statute of limitations period. For purposes of this section, "termination of the collection action" occurs when the agency has terminated collection action in accordance with the FCCS or other applicable standards. In any event, termination of the collection action will be deemed to have occurred if the agency has not received any payments to satisfy the debt from the particular debtor whose wages were subject to garnishment, in whole or in part, for a period of 1 year.

Dated: June 24, 2016.

**Loretta E. Lynch,**

*Attorney General.*

[FR Doc. 2016–15511 Filed 7–5–16; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Parts 100, 117, 147, and 165

## [USCG–2016–0537]

## Quarterly Listings; Safety Zones, Security Zones, Special Local Regulations, Drawbridge Operation Regulations and Regulated Navigation Areas

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of expired temporary rules issued.

**SUMMARY:** This document provides notice of substantive rules issued by the Coast Guard that were made temporarily effective but expired before they could be published in the **Federal Register**. This notice lists temporary safety zones, security zones, special local regulations, drawbridge operation regulations and regulated navigation areas, all of limited duration and for which timely publication in the **Federal Register** was not possible.

**DATES:** This document lists temporary Coast Guard rules that became effective, primarily between July 2013 and December 2015, and were terminated before they could be published in the **Federal Register**.

**ADDRESSES:** Temporary rules listed in this document may be viewed online, under their respective docket numbers, using the Federal eRulemaking Portal at *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** For questions on this notice contact Yeoman First Class Maria Fiorella Villanueva, Office of Regulations and Administrative Law, telephone (202) 372–3862.

**SUPPLEMENTARY INFORMATION:** Coast Guard District Commanders and Captains of the Port (COTP) must be immediately responsive to the safety and security needs within their jurisdiction; therefore, District Commanders and COTPs have been delegated the authority to issue certain local regulations. *Safety zones* may be established for safety or environmental purposes. A safety zone may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion. *Security zones* limit access to prevent injury or damage to vessels, ports, or waterfront facilities. *Special local regulations* are issued to enhance the safety of participants and spectators at regattas and other marine events. *Drawbridge operation regulations* authorize changes to drawbridge schedules to accommodate bridge repairs, seasonal vessel traffic, and local public events. *Regulated Navigation Areas* are water areas within a defined boundary for which regulations for vessels navigating within the area have been established by the regional Coast Guard District Commander.

Timely publication of these rules in the **Federal Register** may be precluded when a rule responds to an emergency, or when an event occurs without sufficient advance notice. The affected public is, however, often informed of these rules through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is provided by Coast Guard patrol vessels enforcing the restrictions imposed by the rule. Because **Federal Register** publication was not possible before the end of the effective period, mariners were personally notified of the contents of these safety zones, security zones, special local regulations, regulated navigation areas or drawbridge operation regulations by Coast Guard officials on-scene prior to any enforcement action. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To meet this obligation without imposing undue expense on the public, the Coast Guard periodically publishes a list of these temporary safety zones, security zones, special local regulations, regulated navigation areas and drawbridge operation regulations. Permanent rules are not included in this list because they are published in their entirety in the **Federal Register**. Temporary rules are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated.

The following unpublished rules were placed in effect temporarily during the period between July 2013 and December 2015 unless otherwise indicated. To view copies of these rules, visit *www.regulations.gov* and search by the docket number indicated in the list below.

| Docket No. | Type | Location | Effective date |
|---|---|---|---|
| USCG–2013–0372 | Safety Zone | Pacific Ocean, CA | 7/5/2013 |
| USCG–2013–0914 | Safety Zone | Alameda, CA | 12/2/2013 |
| USCG–2013–1015 | Safety Zone | Smithland, KY | 12/6/2013 |
| USCG–2014–0036 | Safety Zone | Point Pleasant, WV | 1/26/2014 |
| USCG–2014–0029 | Safety Zone | Ellis Island, NY | 1/27/2014 |
| USCG–2014–0026 | Safety Zone | Pittsburgh, PA | 1/27/2014 |
| USCG–2013–1016 | Security Zone | Jersey City, NJ | 1/27/2014 |
| USCG–2014–0076 | Safety Zone | Brownsville, TX | 2/18/2014 |
| USCG–2014–0050 | Safety Zone | Houston, TX | 3/15/2014 |
| USCG–2014–0325 | Safety Zone | Cincinnati, OH | 7/21/2014 |
| USCG–2014–0445 | Safety Zone | Newport, KY | 7/24/2014 |
| USCG–2014–0919 | Safety Zone | Charleston, WV | 10/4/2014 |
| USCG–2014–0982 | Safety Zone | Pascagoula, MS | 11/8/2014 |
| USCG–2012–1036 | Safety Zone | Oak Dale, NY | 11/29/2014 |
| USCG–2014–0989 | Safety Zone | Mt. Vernon, IN | 12/1/2014 |
| USCG–2014–1034 | Safety Zone | Clarksville, TN | 12/5/2014 |
| USCG–2014–1060 | Safety Zone | Calvert City, TN | 12/15/2014 |
| USCG–2014–1054 | Safety Zone | Wellsburg, WV | 12/31/2014 |
| USCG–2015–0030 | Safety Zone | SW Pass Sea Buoy; LA | 1/26/2015 |
| USCG–2015–0075 | Safety Zone | Bay City, MI | 1/30/2015 |
| USCG–2015–0041 | Safety Zone | New Orleans, LA | 1/31/2015 |
| USCG–2015–0068 | Safety Zone | Beaumont, TX | 3/30/2015 |
| USCG–2015–0331 | Safety Zone | Apra Outer Harbor, GU | 5/3/2015 |
| USCG–2015–0493 | Safety Zone | Toledo, OH. | 5/31/2015 |
| USCG–2015–0428 | Safety Zone | Long Beach, CA | 6/15/2015 |
| USCG–2015–0419 | Safety Zone | Vermilion, OH | 6/19/2015 |
| USCG–2015–0420 | Safety Zone | Oswego, NY | 6/20/2015 |
| USCG–2015–0491 | Safety Zone | Detroit, MI | 6/20/2015 |
| USCG–2015–0665 | Safety Zone | Merizo, GU | 7/19/2015 |
| USCG–2015–0804 | Safety Zone | Hannibal, MO | 8/7/2015 |
| USCG–2015–0773 | Safety Zone | Louisville, KY | 8/15/2015 |
| USCG–2015–0810 | Safety Zone | Erie, PA | 8/16/2015 |
| USCG–2015–0794 | Safety Zone | Chicago, IL | 8/18/2015 |
| USCG–2015–0793 | Safety Zone | Chicago, IL | 8/18/2015 |
| USCG–2015–0769 | Safety Zone | Pittsburgh, PA | 8/19/2015 |
| USCG–2015–0822 | Safety Zone | Chicago, IL | 8/20/2015 |
| USCG–2012–0309 | Safety Zone | Chicago, IL | 8/21/2015 |
| USCG–2015–0787 | Safety Zone | Conneaut, OH | 8/21/2015 |
| USCG–2015–0750 | Safety Zone | Port Duluth Zone | 8/21/2015 |
| USCG–2015–0829 | Safety Zone | Arthur, TX | 8/21/2015 |
| USCG–2015–0789 | Safety Zone | Kansas City, MO | 8/22/2015 |
| USCG–2015–0784 | Safety Zone | Buffalo, NY | 8/22/2015 |
| USCG–2015–0591 | Safety Zone | Pittsburgh, PA | 8/27/2015 |
| USCG–2015–0824 | Safety Zone | Los Angeles, CA | 8/28/2015 |
| USCG–2015–0826 | Safety Zone | Wheeling, WV | 8/29/2015 |
| USCG–2015–0686 | Safety Zone | Knoxville, TN | 8/29/2015 |
| USCG–2015–0562 | Safety Zone | Baton Rouge, LA | 8/29/2015 |
| USCG–2015–0214 | Safety Zone | Wilmette, IL | 8/30/2015 |
| USCG–2015–0778 | Safety Zone | Sunrise Beach, MO | 8/30/2015 |

| Docket No. | Type | Location | Effective date |
|---|---|---|---|
| USCG–2015–0836 | Safety Zone | Chicago, IL | 8/31/2015 |
| USCG–2015–0800 | Security Zone | Seward, AK | 8/31/2015 |
| USCG–2015–0060 | Safety Zone | Cincinnati, OH | 9/1/2015 |
| USCG–2015–0744 | Safety Zone | Carnelian Bay, CA | 9/4/2015 |
| USCG–2015–0860 | Safety Zone | Hickman, KY | 9/5/2015 |
| USCG–2015–0830 | Safety Zone | Saugatuck, MI | 9/5/2015 |
| USCG–2015–0832 | Safety Zone | Madison, OH | 9/6/2015 |
| USCG–2015–0363 | Special Local Regulations | Louisville, KY | 9/11/2015 |
| USCG–2015–0745 | Safety Zone | Ownesboro, KY | 9/11/2015 |
| USCG–2015–0832 | Safety Zone | Chicago, IL | 9/12/2015 |
| USCG–2015–0733 | Safety Zone | Marietta, OH | 9/12/2015 |
| USCG–2015–0706 | Special Local Regulations | Chattanooga, TN | 9/12/2015 |
| USCG–2015–0840 | Safety Zone | San Francisco Bay, CA | 9/12/2015 |
| USCG–2015–0626 | Safety Zone | Nashville, TN | 9/12/2015 |
| USCG–2015–0451 | Special Local Regulations | Clarksville, TN | 9/12/2015 |
| USCG–2015–0734 | Special Local Regulations | Marietta, OH | 9/13/2015 |
| USCG–2015–0879 | Safety Zone | Gulport, MS | 9/15/2015 |
| USCG–2015–0803 | Special Local Regulations | Chattanooga, TN | 9/16/2015 |
| USCG–2015–0891 | Security Zone | St Augustine, FL | 9/18/2015 |
| USCG–2015–0763 | Special Local Regulations | Parkersburg, WV | 9/19/2015 |
| USCG–2015–0777 | Safety Zone | New Athens, IL | 9/19/2015 |
| USCG–2015–0870 | Safety Zone | Superior, WI | 9/19/2015 |
| USCG–2015–0919 | Security Zone | Seattle, WA | 9/23/2015 |
| USCG–2015–0802 | Safety Zone | Mobile, AL | 9/24/2015 |
| USCG–2015–0781 | Special Local Regulations | Martinsville, WV | 9/25/2015 |
| USCG–2015–0884 | Special Local Regulations | Morris, IL | 9/26/2015 |
| USCG–2015–0818 | Special Local Regulations | Louisville, KY | 9/26/2015 |
| USCG–2015–0901 | Safety Zone | Chicago, IL | 9/26/2015 |
| USCG–2015–0812 | Special Local Regulations | Prospect, KY | 9/26/2015 |
| USCG–2015–0011 | Special Local Regulations | Chattanooga, TN | 9/27/2015 |
| USCG–2015–0922 | Special Local Regulations | Long Beach, CA | 10/1/2015 |
| USCG–2015–0839 | Special Local Regulations | Lake Havasu City, AZ | 10/2/2015 |
| USCG–2015–0855 | Safety Zone | Fort Lauderdale, FL | 10/3/2015 |
| USCG–2015–0827 | Safety Zone | Charleston, WV | 10/3/2015 |
| USCG–2015–0671 | Special Local Regulations | Florence, AL | 10/3/2015 |
| USCG–2015–0900 | Safety Zone | Morro Bay, CA | 10/3/2015 |
| USCG–2015–0859 | Safety Zone | Pittsburgh, PA | 10/4/2015 |
| USCG–2012–1036 | Special Local Regulations | Hartford, CT | 10/4/2015 |
| USCG–2015–0937 | Safety Zone | Crystal Bay, CA | 10/7/2015 |
| USCG–2015–0899 | Safety Zone | Nashville, TN | 10/9/2015 |
| USCG–2015–0654 | Safety Zone | Hagatna, GU | 10/9/2015 |
| USCG–2015–0779 | Special Local Regulations | San Francisco, CA | 10/9/2015 |
| USCG–2015–0677 | Safety Zone | New Orleans, LA | 10/10/2015 |
| USCG–2015–0882 | Special Local Regulations | San Diego, CA | 10/10/2015 |
| USCG–2015–0668 | Special Local Regulations | Louisville, KY | 10/10/2015 |
| USCG–2015–0711 | Safety Zone | Chattanooga, TN | 10/10/2015 |
| USCG–2015–0791 | Safety Zone | Rio Vista, CA | 10/10/2015 |
| USCG–2015–0887 | Safety Zone | San Francisco, CA | 10/10/2015 |
| USCG–2015–0743 | Safety Zone | Capitola, CA | 10/11/2015 |
| USCG–2015–0851 | Regulated Navigation Areas | Miami, FL | 10/12/2015 |
| USCG–2015–0920 | Safety Zone | Port New York Zone | 10/12/2015 |
| USCG–2015–0799 | Safety Zone | Oahu, Hawaii | 10/16/2015 |
| USCG–2015–0977 | Safety Zone | Grange, IL | 10/17/2015 |
| USCG–2015–0954 | Safety Zone | Island, MI | 10/17/2015 |
| USCG–2015–0828 | Safety Zone | Charleston, WV | 10/18/2015 |
| USCG–2015–0930 | Special Local Regulations | San Diego, CA | 10/18/2015 |
| USCG–2015–0874 | Safety Zone | San Diego, CA | 10/19/2015 |
| USCG–2015–0965 | Safety Zone | Marinette, WI | 10/20/2015 |
| USCG–2015–0969 | Safety Zone | Tampa Bay, FL | 10/21/2015 |
| USCG–2015–0953 | Safety Zone | Detroit, MI | 10/21/2015 |
| USCG–2015–0790 | Safety Zone | Jacksonville Beach, FL | 10/22/2015 |
| USCG–2015–0862 | Safety Zone | Louisville, KY | 10/23/2015 |
| USCG–2015–0866 | Safety Zone | St. Louis, MO | 10/24/2015 |
| USCG–2015–0990 | Safety Zone | Galveston TX | 10/26/2015 |
| USCG–2015–0898 | Safety Zone | Seal Beach, Ca | 10/26/2015 |
| USCG–2011–0489 | Safety Zone | Chicago Harbor & Burnham Park | 10/27/2015 |
| USCG–2015–0971 | Safety Zone | Oak Island, NC | 10/27/2015 |
| USCG–2015–0993 | Safety Zone | Chicago, IL | 10/29/2015 |
| USCG–2015–1002 | Safety Zone | Fairfax County, VA | 10/30/2015 |
| USCG–2015–0979 | Safety Zone | Long Beach, CA | 10/30/2015 |
| USCG–2015–0536 | Safety Zone | Pittsburgh, PA | 10/31/2015 |
| USCG–2015–0536 | Safety Zone | Pittsburgh, PA | 10/31/2015 |
| USCG–2015–0801 | Drawbridges | Sacramento, CA | 11/1/2015 |

| Docket No. | Type | Location | Effective date |
|---|---|---|---|
| USCG–2015–0991 | Safety Zone | Jean Lafitte, LA | 11/1/2015 |
| USCG–2015–0981 | Safety Zone | Henderson, KY | 11/2/2015 |
| USCG–2012–0309 | Safety Zone | Chicago, IL | 11/5/2015 |
| USCG–2015–0994 | Safety Zone | Kelley's Island, OH | 11/6/2015 |
| USCG–2015–1004 | Safety Zone | Marysville, MI | 11/7/2015 |
| USCG–2015–1014 | Security Zone | Annapolis, MD | 11/9/2015 |
| USCG–2015–0996 | Safety Zone | Mobile, AL | 11/13/2015 |
| USCG–2015–1049 | Safety Zone | Pascagoula, MS | 11/15/2015 |
| USCG–2015–0995 | Safety Zone | Mobile, AL | 11/17/2015 |
| USCG–2015–0976 | Safety Zone | Parkville, MO | 11/20/2015 |
| USCG–2015–0903 | Special Local Regulations | Englewood, FL | 11/20/2015 |
| USCG–2015–0872 | Special Local Regulations | Chattanooga, TN | 11/21/2015 |
| USCG–2015–1020 | Safety Zone | Wilmington, NC | 11/21/2015 |
| USCG–2015–1040 | Security Zone | New York Harbor, NY | 11/22/2015 |
| USCG–2015–0972 | Safety Zone | Piti, GU | 11/25/2015 |
| USCG–2015–1056 | Safety Zone | St. Louis, MO | 11/29/2015 |
| USCG–2015–1045 | Safety Zone | San Pedro, CA | 12/2/2015 |
| USCG–2015–0984 | Safety Zone | Chickamauga L&D | 12/3/2015 |
| USCG–2015–1067 | Security Zone | Cleveland, OH | 12/3/2015 |
| USCG–2015–1068 | Safety Zone | Marietta, OH | 12/3/2015 |
| USCG–2015–0863 | Safety Zone | Calhoun, KY | 12/4/2015 |
| USCG–2015–1058 | Safety Zone | Newport News, VA | 12/4/2015 |
| USCG–2015–0878 | Safety Zone | Lake Charles, LA | 12/6/2015 |
| USCG–2015–1012 | Safety Zone | Wilmington, NC | 12/6/2015 |
| USCG–2015–1059 | Special Local Regulations | San Juan, PR | 12/6/2015 |
| USCG–2015–0997 | Safety Zone | Louisville, KY | 12/8/2015 |
| USCG–2015–0986 | Safety Zone | New Johnsonville, TN | 12/9/2015 |
| USCG–2015–1104 | Drawbridges | Alameda, CA | 12/18/2015 |
| USCG–2015–1109 | Safety Zone | Buffalo, NY | 12/19/2015 |
| USCG–2015–1027 | Safety Zone | San Francisco, CA | 12/30/2015 |
| USCG–2015–1062 | Safety Zone | Boston, MA | 12/31/2015 |
| USCG–2015–1017 | Safety Zone | Sacramento, CA | 12/31/2015 |
| USCG–2015–1071 | Safety Zone | Long Beach, CA | 12/31/2015 |
| USCG–2015–1073 | Drawbridges | Sacramento, CA | 12/31/2015 |
| USCG–2015–1069 | Safety Zone | Marina Del Rey, CA | 12/31/2015 |

Dated: June 13, 2016.

**K. Kroutil,**

*Chief, Office of Regulations and Administrative Law, United States Coast Guard.*

[FR Doc. 2016–16016 Filed 7–5–16; 8:45 am]

BILLING CODE 9110–04–P

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 60

## Standards of Performance for New Stationary Sources; CFR Correction

*Correction*

In rule document 2016–15707 beginning on page 42542 in the issue of Thursday, June 30th, 2016, make the following correction:

On page 42542, in the third column, below the 44th line, remove the photographed text and insert, "3. Reinstate the symbol ∃, in the following places:".

[FR Doc. C1–2016–15707 Filed 7–5–16; 8:45 am]

BILLING CODE 1505–01–D

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## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 46 CFR Parts 1, 10, 11, 12, 13, and 15

## [Docket No. USCG–2016–0315]

## Shipping; Technical, Organizational, and Conforming Amendments

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** This final rule makes non-substantive technical, organizational, and conforming amendments to existing regulations throughout title 46 of the Code of Federal Regulations to reorganize Coast Guard offices responsible for administering the Mariner Credentialing Program. This rule will have no substantive effect on the regulated public.

**DATES:** This final rule is effective July 6, 2016.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket are part of docket USCG–2016–0315, and are available using the Federal eRulemaking Portal. You can find this docket on the Internet by going to *http://www.regulations.gov,* inserting USCG–2016–0315 in the "Keyword" box, and then clicking "Search."

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this final rule, call or email Mr. R. Sam Teague, Coast Guard; telephone 202–372–1425, email *ronald.s.teague@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### Table of Contents for Preamble

I. Abbreviations
II. Regulatory History
III. Basis and Purpose
IV. Discussion of the Rule
V. Regulatory Analyses
  A. Regulatory Planning and Review
  B. Small Entities
  C. Assistance for Small Entities
  D. Collection of Information
  E. Federalism
  F. Unfunded Mandates Reform Act
  G. Taking of Private Property
  H. Civil Justice Reform
  I. Protection of Children
  J. Indian Tribal Governments
  K. Energy Effects
  L. Technical Standards
  M. Environment

### I. Abbreviations

| | |
|---|---|
| CFR | Code of Federal Regulations |

CG–MMC Coast Guard Office of Merchant Mariner Credentialing
DHS Department of Homeland Security
FR Federal Register
MCP Mariner Credentialing Program
NMC National Maritime Center
OMB Office of Management and Budget
Pub. L. Public Law
§ Section symbol
U.S.C. United States Code

## II. Regulatory History

We did not publish a notice of proposed rulemaking for this rule. Under 5 U.S.C. 553(b)(A), the Coast Guard finds that this rule is exempt from notice and comment rulemaking requirements because these changes involve rules of agency organization, procedure, or practice. In addition, the Coast Guard finds that notice and comment procedures are unnecessary under 5 U.S.C. 553(b)(B), as this rule consists only of corrections and editorial, organizational, and conforming amendments, and that these changes will have no substantive effect on the regulated public. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that, for the same reasons, good cause exists for making this final rule effective upon publication in the **Federal Register**.

## III. Basis and Purpose

The legal basis of this rule is found in 5 U.S.C. 552(a) and 553; 14 U.S.C. 633; and Department of Homeland Security Delegation No. 0170.1.

The purpose of this rule is to announce the reorganization of the offices responsible for administration of the Mariner Credentialing Program (MCP) in order to improve mission execution and organizational efficiency by ensuring all aspects of the Coast Guard's credentialing program report to a single directorate and by creating one centralized office at Headquarters responsible for all technical aspects of the MCP. This rule makes technical and editorial corrections throughout title 46 of the CFR, in conjunction with the assignment of MCP responsibilities to this new office, and does not create or change any substantive requirements.

## IV. Discussion of the Rule

The Coast Guard is consolidating the MCP under the newly created Office of Merchant Mariner Credentialing (CG–MMC) to provide program support and policy development to allow the National Maritime Center (NMC) to efficiently issue credentials to U.S. mariners quickly and in full compliance with all applicable domestic and international requirements. Mariners, ship operators, and maritime academies frequently have questions and issues related to implementation of requirements and interpretations of the credentialing standards. The consolidation of the MCP into a single office, under a single directorate that also oversees the National Maritime Center (NMC), will provide a single point of contact at Coast Guard Headquarters for all internal and external customers. A single point of contact will ensure faster and more consistent responses to the maritime industry and the NMC, which is responsible for issuing the credentials. With a single director and chain of command for mariner credentialing, we will ensure greater consistency in creation, implementation, and interpretation of international and domestic standards in this area.

The consolidation of functions will also reduce duplicative efforts within the Coast Guard Headquarters organization. There are numerous redundant processes in our current headquarters organizational structure that are designed to ensure the NMC, the two Prevention directorates, and two Headquarters offices are aligned. Consolidation will eliminate these duplicative processes by placing these functions into a single office in one directorate. We expect this consolidation to yield greater efficiency, with a single office providing centralized and consistent responses to all stakeholders of the MCP.

This final rule amends 46 CFR parts 1, 10, 11, 12, 13, and 15 by removing the mariner credentialing responsibilities from the Director of Inspections and Compliance (CG–5PC) and the Offices of Operating and Environmental Standards (CG–OES) and Commercial Vessel Compliance (CG–CVC). With this final rule, full mariner credentialing responsibilities will be assumed by the Director of Commercial Regulations and Standards through the newly created Office of Merchant Mariner Credentialing (CG–MMC).

## V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on these statutes or Executive Orders.

### *A. Regulatory Planning and Review*

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under section 3(f) of Executive Order 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget. Because this rule involves non-substantive changes and internal agency practices and procedures, it will not impose any additional costs on the public. The benefit of the non-substantive changes is improved organizational efficiency. Given that this rule makes changes that involve rules of agency organization, procedure, or practice, and will have no substantive effect on the regulated public, we have not performed any further economic analysis or a regulatory analysis for this rule.

### *B. Small Entities*

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), rules exempt from the notice and comment requirements of the Administrative Procedure Act are not required to examine the impact of the rule on small entities. The Coast Guard finds that this rule is exempt from notice and comment rulemaking requirements under 5 U.S.C. 553(b)(A) because these changes involve rules of agency organization, procedure, or practice. In addition, the Coast Guard finds that notice and comment procedures are unnecessary under 5 U.S.C. 553(b)(B), as this rule consists only of corrections and editorial, organizational, and conforming amendments, and that these changes will have no substantive effect on the regulated public.

### *C. Assistance for Small Entities*

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction, and you have questions concerning its provisions or options for compliance, please consult Mr. R. Sam Teague at 202–372–1425, or by email at *ronald.s.teague@uscg.mil.* The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small businesses. If you wish to comment on actions by employees of the Coast Guard, please call 1–888–REG–FAIR (1–888–734–3247).

### *D. Collection of Information*

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### *E. Federalism*

A rule has implications for federalism under Executive Order 13132 ("Federalism") if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

### *F. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any 1 year. Though this final rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### *G. Taking of Private Property*

This final rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630 ("Governmental Actions and Interference with Constitutionally Protected Property Rights").

### *H. Civil Justice Reform*

This final rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 ("Civil Justice Reform"), to minimize litigation, eliminate ambiguity, and reduce burden.

### *I. Protection of Children*

We have analyzed this final rule under Executive Order 13045 ("Protection of Children from Environmental Health Risks and Safety Risks"). This final rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

### *J. Indian Tribal Governments*

This final rule does not have tribal implications under Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"), because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### *K. Energy Effects*

We have analyzed this final rule under Executive Order 13211 ("Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use"). We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB) has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### *L. Technical Standards*

The National Technology Transfer and Advancement Act (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This final rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### *M. Environment*

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 2.B.2, figure 2–1, paragraphs (34)(a) and (b) of the Instruction. This final rule involves amendments to regulations that are editorial or procedural, or concern internal agency functions or organization. An environmental analysis checklist and a categorical exclusion determination are available in the docket for this final rule where indicated under **ADDRESSES**.

## List of Subjects

### *46 CFR Part 1*

Administrative practice and procedure, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

### *46 CFR Part 10*

Incorporation by reference, Penalties, Personally identifiable information, Reporting and recordkeeping requirements, Seamen.

### *46 CFR Part 11*

Incorporation by reference, Penalties, Reporting and recordkeeping requirements, Schools, Seamen.

### *46 CFR Part 12*

Incorporation by reference, Penalties, Reporting and recordkeeping requirements, Seamen.

### *46 CFR Part 13*

Incorporation by reference, Cargo vessels, Reporting and recordkeeping requirements, Seamen.

### *46 CFR Part 15*

Incorporation by reference, Reporting and recordkeeping requirements, Seamen, Vessels.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR parts 1, 10, 11, 12, 13, and 15 as follows:

## PART 1—ORGANIZATION, GENERAL COURSE AND METHODS GOVERNING MARINE SAFETY FUNCTIONS

■ 1. The authority citation for part 1 continues to read as follows:

**Authority:** 5 U.S.C. 552; 14 U.S.C. 633; 46 U.S.C. 7701; 46 U.S.C. Chapter 93; Pub. L. 107–296, 116 Stat. 2135; Department of Homeland Security Delegation No. 0170.1; § 1.01–35 also issued under the authority of 44 U.S.C. 3507.

■ 2. Amend § 1.01–10 as follows:

■ a. Redesignate paragraphs (c)(2)(i)(B) and (C) as (c)(2)(i)(C) and (D), respectively;

■ b. Add new paragraph (c)(2)(i)(B);

■ c. Remove paragraph (c)(2)(iv);

■ d. Remove paragraphs (d)(1) and (2); and

■ e. Add paragraphs (e), (f), (g), and (h).

The additions read as follows:

**§ 1.01–10 Organization.**

* * * * *

(c) * * *

(2) * * *

(i) * * *

(B) The Office of Merchant Mariner Credentialing (CG–MMC),

* * * * *

(e) The Director of Commercial Regulations and Standards (CG–5PS), under the general direction and supervision of the Deputy for Operations Policy and Capabilities (CG–DCO–D) and the Assistant Commandant for Prevention Policy (CG–5P), establishes federal policies for development of marine safety, security, and environmental protection treaties, laws, and regulations; develops safety, security, and environmental protection standards for the maritime industry; integrates all marine safety, security, and environmental protection regulatory programs; prepares legislation, regulations, and industry guidance for new safety and environmental protection programs; maintains an active program for development of third party consensus industry standards, and provides oversight to marine personnel matters.

(1) The Chief, Office of Design and Engineering Standards (CG–ENG), at Headquarters, under the direction of the Assistant Commandant for Prevention Policy (CG–5P) and the Director of Commercial Regulations and Standards (CG–5PS), manages the program for defining the overall regulatory approach for vessels, offshore structures, and other marine systems incorporating safety considerations regarding the role of the human element; develops policies and regulations on load line matters and supervises classification societies authorized to assign load lines on behalf of the Coast Guard; oversees the development and maintenance of programs that incorporate risk-based methods in making safety determinations and policies; and oversees technical research and development for safety and environmental protection associated with marine vessels, structures and facilities.

(2) The Chief, Office of Merchant Mariner Credentialing (CG–MMC), at Headquarters, under the direction of the Assistant Commandant for Prevention Policy (CG–5P) and the Director of Commercial Regulations and Standards (CG–5PS), develops and maintains standards and policy, statutes, regulations and guidance for the maritime industry regarding personnel qualifications, licensing, certification, manning and labor issues; provides oversight of mariner credentialing and marine personnel administration matters, and coordinates the monitoring of U.S. implementation efforts with respect to the International Convention on Standards of Training, Certification & Watchkeeping for Seafarers (STCW) 1978, as amended; and reviews mariner appeals of credentialing decisions and provides a recommended final agency action for CG–5PS signature.

(3) The Chief, Office of Operating and Environmental Standards (CG–OES), at Headquarters, under the direction of the Assistant Commandant for Prevention Policy (CG–5P) and the Director of Commercial Regulations and Standards (CG–5PS), coordinates and integrates program standards for vessel and facility operations, cargo systems and handling, and environmental protection; develops and maintains standards, regulations, and industry guidance for maritime industry operations to prevent deaths, injuries, property damage, and environmental harm; develops and maintains safety standards and regulations for commercial fishing industry vessels and uninspected commercial vessels; and develops and maintains health and safety standards and regulations for U.S.-inspected vessels.

(4) The Chief, Office of Standards Evaluation and Development (CG–REG), at Headquarters, under the direction of the Assistant Commandant for Prevention Policy (CG–5P) and the Director of Commercial Regulations and Standards (CG–5PS), coordinates the development of new standards, programs, and regulations across all technical and operational areas of marine safety and environmental protection; provides comprehensive analytical support for all standards assessment and development efforts; coordinates development of measures of effectiveness for assessing regulatory programs and consensus standards; and oversees the Coast Guard's rulemaking development program.

(5) The Commanding Officer, Marine Safety Center, under the direction of the Assistant Commandant for Prevention Policy (CG–5P) and the Director of Commercial Regulations and Standards (CG–5PS), conducts reviews and approvals of plans, calculations, and other materials concerning the design, construction, alterations, and repair of commercial vessels to determine conformance with the marine inspection laws, regulations, and implementing directions, and administers the U.S. Tonnage Measurement program.

(6) The Commanding Officer, Coast Guard National Maritime Center (NMC), under the direction of the Assistant Commandant for Prevention Policy (CG–5P) and the Director of Commercial Regulations and Standards (CG–5PS), and subject to the policy and guidance of the Office of Merchant Mariner Credentialing (CG–MMC); evaluates merchant mariners for suitability for service; issues merchant mariner credentials; evaluates and conducts oversight of approved courses; and exercises operational and administrative control over the Regional Examination Centers.

(f) The Director of Inspections and Compliance (CG–5PC), under the general direction and supervision of the Assistant Commandant for Prevention Policy (CG–5P), acts as Program Manager for the Marine Safety, Security, and Environmental Protection Programs; directs, coordinates, and integrates the Coast Guard's marine safety and environmental protection compliance programs, contingency planning, response operations, and investigations programs; establishes and coordinates field implementation policies and priorities for all marine safety commands and units; serves as the focal point for field support and technical guidance; and provides oversight of vessel documentation matters and, through the District Commander, supervises the administration of the Marine Safety Division of District Offices and Officers in Charge, Marine Inspection.

(1) The Chief, Office of Commercial Vessel Compliance (CG–CVC), at Headquarters, under the direction of the Assistant Commandant for Prevention Policy (CG–5P) and the Director of Inspections and Compliance (CG–5PC), administers and balances all marine safety and environmental protection compliance programs, including direction of Coast Guard activities and oversight of third parties and industry programs; develops, publishes, and maintains program policies for vessel compliance, interprets standards and regulations, and provides field guidance for execution and enforcement; administers the marine inspection program, commercial fishing vessel examination program, and foreign vessel boarding program for the enforcement of commercial vessel material and operational safety standards; and

supervises the administration of the manning of U.S. vessels.

(2) The Chief, Office of Environmental Response Policy (CG–MER), at Headquarters, under the Direction of the Deputy for Operations Policy and Capabilities (CG–DCO–D) and the Assistant Commandant for Response Policy (CG–5R), coordinates and integrates field planning, preparedness, and response operations for pollution incidents, natural disasters, marine accidents, terrorism, and other threats to public safety, the marine environment, or marine transportation and commerce; develops, publishes, and maintains program policies for preparedness and response, interprets laws and regulations, and provides field guidance for execution; provides guidance regarding emergency authorities of the Captain of the Port (COTP); and administers Office programs for ports and waterway management, bridging compliance, and response efforts with an active presence in the marine environment.

(3) The Chief, Office of Investigations and Analyses (CG–INV), at Headquarters, under the direction of the Assistant Commandant for Prevention Policy (CG–5P) and the Director of Inspections and Compliance (CG–5PC), reviews investigations of marine casualties; manages, develops policy for and evaluates domestic and international programs and processes associated with investigations of marine casualties and injuries; manages analysis of casualties and casualty data, civil penalties and other remedial programs (including proceedings to suspend or revoke Coast Guard credentials held by mariners); and manages marine employer drug and alcohol testing programs.

(g) The Director of Operations Resource Management (CG–DCO–R), under the general direction and supervision of the Deputy Commandant for Operations (CG–DCO), serves as Facility Manager for the marine safety programs; coordinates and integrates financial, informational, and human resources; plans, acquires, develops, and allocates resources for development and execution of the Coast Guard's marine safety programs; provides the focal point for all resource issues in support of the Standards and Operations Directorates; and oversees the development and management of the Coast Guard's direct user fee program.

(h) The Judge Advocate General and Chief Counsel of the Coast Guard (CG–094), under the general direction of and in coordination with the General Counsel, Department of Homeland Security, is the senior legal advisor to the Commandant, Vice Commandant, and senior staff officers. The Judge Advocate General advises on all cases and controversies arising under the various authorities of the Coast Guard involving alleged violations of international, maritime, navigation, and vessel inspection laws, or regulations prescribed thereunder and published in this chapter or in 33 CFR chapter I, and reviews appeals to the Commandant from actions derived from these authorities. On completion of such a review, the Judge Advocate General prepares a proposed action for the Commandant's consideration or, in appropriate cases, takes final action on behalf of, and as directed by, the Commandant.

### § 1.01–15 [Amended]

■ 3. Amend § 1.01–15 as follows:

■ a. In paragraph (c)(2), remove the words "the processing NMC detachment,"; and

■ b. In paragraph (d), remove the words "Vessel Activities (CG–CVC)," and add, in their place, the words "Merchant Mariner Credentialing (CG–MMC)".

### § 1.01–25 [Amended]

■ 4. In § 1.01–25(b)(1) and (2), remove the words "Marine Safety and Environmental Protection" and add, in their place the words "the Assistant Commandant for Prevention Policy".

■ 5. Revise the table in § 1.01–35(b) to read as follows:

### § 1.01–35 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

| 46 CFR part or section where identified or described | Current OMB control No. |
|---|---|
| § 2.01 | 1625–0002 |
| § 2.95–10 | 1625–0035 |
| § 3.10 | 1625–0014 |
| Part 4 | 1625–0001 |
| Part 6 | 1625–0002 |
| Part 10 | 1625–0040 |

■ 6. Amend § 1.03–15 as follows:

■ a. In paragraph (g), remove the words "Marine Safety and Environmental Protection" wherever they appear and add, in their place, the words "Prevention Policy (CG–5P)"; and

■ b. Revise paragraphs (h) introductory text, (h)(2) and (3), and (j).

The revisions read as follows:

### § 1.03–15 General.

* * * * *

(h) Formal appeals made to the Commandant must be addressed to:

* * * * *

(2) Commandant (CG–5PS) for appeals involving vessel plan review or tonnage measurement issues and for all appeals involving suspension or withdrawal of course approvals, all merchant mariner personnel issues appealed from the National Maritime Center or from an OCMI through a District Commander.

(i) Appeals involving course approvals and merchant mariner personnel issues must be addressed to the Office of Merchant Mariner Credentialing (CG–MMC), U.S. Coast Guard, Stop 7509, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7509.

(ii) Appeals involving vessel plan review or tonnage measurement issues must be addressed to Director of Commercial Regulations and Standards (CG–5PS), U.S. Coast Guard, Stop 7509, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7509.

(3) Commandant (CG–5PC) for all appeals regarding the documentation of a vessel under part 67 or part 68 of this title. All appeals regarding the documentation of a vessel under part 67 or part 68 of this title must be addressed to Commandant (CG–5PC), Attn: Director of Inspections and Compliance, U.S. Coast Guard Stop 7501, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7501, and a copy of each such appeal must be sent to the National Vessel Documentation Center, 792 T J Jackson Drive; Falling Waters, WV 25419;

* * * * *

(j) Any decision made by the Commandant, or by the Deputy Commandant for Operations (DCO–D), or by the Assistant Commandant for Prevention Policy (CG–5P), or by a Director or an office chief pursuant to authority delegated by the Commandant is final agency action on the appeal.

### § 1.03–40 [Amended]

■ 7. In § 1.03–40, remove the words "Director of Inspections and Compliance (CG–5PC)" wherever they appear and add, in their place, the words "Director of Commercial Regulations and Standards (CG–5PS)".

## PART 10—MERCHANT MARINER CREDENTIAL

■ 8. The authority citation for part 10 continues to read as follows:

**Authority:** 14 U.S.C. 633; 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110; 46 U.S.C. chapter 71; 46 U.S.C. chapter 73; 46 U.S.C. chapter 75; 46 U.S.C. 2104; 46 U.S.C. 7701, 8903, 8904, and 70105; Executive Order 10173; Department of Homeland Security Delegation No. 0170.1.

**§ 10.103 [Amended]**

■ 9. In § 10.103(a), remove the words "Commandant (CG–OES–1), Attn: Marine Personnel Qualifications Division" and add, in their place, the words "Office of Merchant Mariner Credentialing (CG–MMC)", and remove the numbers "202–372–1405" and add, in their place, the numbers "202–372–1492".

**§ 10.408 [Amended]**

■ 10. In § 10.408(c)(2), remove the letters "CG–CVC" and add, in its place, the letters "CG–MMC".

## PART 11—REQUIREMENTS FOR OFFICER ENDORSEMENTS

■ 11. The authority citation for part 11 continues to read as follows:

**Authority:** 14 U.S.C. 633; 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, and 2110; 46 U.S.C. chapter 71; 46 U.S.C. 7502, 7505, 7701, 8906, and 70105; Executive Order 10173; Department of Homeland Security Delegation No. 0170.1. Section 11.107 is also issued under the authority of 44 U.S.C. 3507.

■ 12. In § 11.102, revise paragraph (a) to read as follows:

**§ 11.102 Incorporation by reference.**

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available for inspection at the Coast Guard, Office of Merchant Mariner Credentialing (CG–MMC), U.S. Coast Guard, Stop 7509, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7509, 202–372–1492, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

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## PART 12—REQUIREMENTS FOR RATING ENDORSEMENTS

■ 13. The authority citation for part 12 continues to read as follows:

**Authority:** 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110, 7301, 7302, 7503, 7505, 7701, and 70105; Department of Homeland Security Delegation No. 0170.1.

■ 14. In § 12.103, revise paragraph (a) to read as follows:

**§ 12.103 Incorporation by reference.**

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available for inspection at the Coast Guard, Office of Merchant Mariner Credentialing (CG–MMC), U.S. Coast Guard, Stop 7509, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

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## PART 13—CERTIFICATION OF TANKERMEN

■ 15. The authority citation for part 13 continues to read as follows:

**Authority:** 46 U.S.C. 3703, 7317, 8105, 8703, 9102; Department of Homeland Security Delegation No. 0170.1.

■ 16. In § 13.103, revise paragraph (a) to read as follows:

**§ 13.103 Incorporation by reference.**

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available for inspection at the Coast Guard, Office of Merchant Mariner Credentialing (CG–MMC), U.S. Coast Guard, Stop 7509, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7509, 202–372–1492, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

* * * * *

## PART 15—MANNING REQUIREMENTS

■ 17. The authority citation for part 15 continues to read as follows:

**Authority:** 46 U.S.C. 2101, 2103, 3306, 3703, 8101, 8102, 8104, 8105, 8301, 8304, 8502, 8503, 8701, 8702, 8901, 8902, 8903, 8904, 8905(b), 8906, 9102, and 8103; sec. 617, Pub. L. 111–281, 124 Stat. 2905; and Department of Homeland Security Delegation No. 0170.1.

■ 18. In § 15.103, revise paragraph (a) to read as follows:

**§ 15.103 Incorporation by reference.**

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available for inspection at the Coast Guard, Office of Merchant Mariner Credentialing (CG–MMC), U.S. Coast Guard, Stop 7509, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7509, 202–372–1492, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

* * * * *

Dated: June 27, 2016.

**J.G. Lantz,**

*Director of Commercial Regulations and Standards, U.S. Coast Guard.*

[FR Doc. 2016–15660 Filed 7–5–16; 8:45 am]

BILLING CODE 9110–04–P

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## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 73

**[MB Docket No. 16–93; RM–11764; DA 16–713]**

## Television Broadcasting Services; Tolleson, Arizona

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** A petition for rulemaking was filed by America 51, L.P. (America 51), the licensee of KPPX–TV, channel 51, Tolleson, Arizona, requesting the substitution of channel 31 for channel 51 at Tolleson. America 51 filed comments reaffirming its interest in the proposed channel substitution and stated that if the proposal is granted, it will promptly file an application for the facilities specified in the rulemaking petition and construct the station. America 51 asserts that adopting the proposed channel substitution would serve the public interest because it would remove any potential interference with authorized wireless operations in the Lower 700 MHz A Block adjacent to channel 51 in the Phoenix, Arizona market. In addition, America 51 agrees that KPPX–TV will be protected in the incentive auction at its channel 51 operating parameters even after its move to channel 31, and

recognizes that as a result of repacking during the incentive auction, it may be required to move from channel 31.

**DATES:** This rule is effective July 6, 2016.

**FOR FURTHER INFORMATION CONTACT:** Joyce Bernstein, *Joyce.Bernstein@fcc.gov,* Media Bureau, (202) 418–1647.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order,* MB Docket No. 16–93, adopted June 28, 2016, and released June 28, 2016. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street SW., Washington, DC 20554. This document will also be available via ECFS (*http://fjallfoss.fcc.gov/ecfs/*). To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional review Act, *see* 5 U.S.C. 801(a)(1)(A).

### List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Division, Media Bureau.*

### Final rule

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

## PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336, and 339.

### § 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Arizona is amended by removing channel 51 and adding channel 31 at Tolleson.

[FR Doc. 2016–15971 Filed 7–5–16; 8:45 am]

**BILLING CODE 6712–01–P**

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Chapter I

### [GN 12–268; FCC 16–47]

## Declaratory Ruling About Reimbursement of Pre-Auction Expenses

**AGENCY:** Federal Communications Commission.

**ACTION:** Declaratory ruling.

**SUMMARY:** In this Declaratory Ruling, the Commission determined that the Spectrum Act's reimbursement mandate encompasses "costs reasonably incurred" prior to the close of the auction that otherwise are eligible for reimbursement.

**DATES:** This Declaratory Ruling is effective July 6, 2016. This Declaratory Ruling was applicable upon release by the Commission, April 18, 2016.

**FOR FURTHER INFORMATION CONTACT:** Pamela Gallant, 202–418–0614.

**SUPPLEMENTARY INFORMATION:** The *Spectrum Act* requires the Commission to reimburse broadcast television licensees and multichannel video programming distributors (MVPDs), respectively, for "costs reasonably incurred" in relocating to new channels assigned in the repacking process and in order to continue to carry the signals of stations relocating to new channels. In the *Incentive Auction R&O,* the Commission established a process that requires eligible entities seeking reimbursement to provide an estimate of their eligible costs following the close of the forward auction and the release of the *Channel Reassignment PN.* The Commission did not address in the *Incentive Auction R&O* whether pre-auction expenses are eligible for reimbursement. Interested parties asked for clarification whether expenses incurred before the auction closes and the repacking results are announced are eligible for reimbursement, explaining that uncertainty regarding this issue discourages advance work that could be performed to expedite the post-auction transition for stations that are reassigned to new channels. In this Declaratory Ruling, the Commission interprets the statutory reimbursement mandate to include "costs reasonably incurred" before and during the auction that otherwise are eligible for reimbursement. Consistent with the *Spectrum Act,* only stations that ultimately are reassigned to a new channel in their pre-auction band in the repacking process will be eligible for reimbursement of expenses incurred before and during the auction, which will be subject to the same reimbursement process as post-auction expenses. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). The Commission will not send a copy of this Declaratory Ruling to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A) because no rules are being adopted by the Commission.

Federal Communications Commission.

**Gloria J. Miles,**

*Federal Register Liaison Officer, Office of the Secretary.*

[FR Doc. 2016–15870 Filed 7–5–16; 8:45 am]

**BILLING CODE 6712–01–P**

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## GENERAL SERVICES ADMINISTRATION

### 48 CFR Parts 538 and 552

### [GSAR–TA–02; Docket No. 2014–0008; Sequence No. 1]

### RIN 3090–AJ43

## General Services Administration Acquisition Regulation (GSAR); Technical Amendments

**AGENCY:** General Services Administration (GSA).

**ACTION:** Final rule.

**SUMMARY:** The General Services Administration (GSA) is amending the General Services Administration Acquisition Regulation (GSAM) to make revisions made to GSAR Case 2010–G511—Federal Supply Schedules: Purchasing by Non-Federal Entities, which was published in the **Federal Register** on June 6, 2016.

**DATES:** *Effective:* July 6, 2016.

**FOR FURTHER INFORMATION CONTACT:** Ms. Dana Munson, General Services

Acquisition Policy Division, at 202–357–9652, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, 202–501–4755. Please cite GSAR–TA–02; Technical Amendments.

**SUPPLEMENTARY INFORMATION:** GSA published a document in the **Federal Register** at 81 FR 36425, on June 6, 2016 that was effective on July 6, 2016. Since these changes were published, further revisions were made to the affected regulations by a document posted in the **Federal Register** at 81 FR 41103 that was effective on June 23, 2016. Therefore, conforming changes are being made to correct 48 CFR parts 538 and 552.

### List of Subjects in 48 CFR Parts 538 and 552

Government procurement.

Dated: June 29, 2016.

**Jeffrey A. Koses,**

*Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy.*

Therefore, GSA amends 48 CFR parts 538 and 552 as set forth below:

■ 1. The authority citation for 48 CFR parts 538 and 552 continues to read as follows:

**Authority:** 40 U.S.C. 121(c).

## PART 538—FEDERAL SUPPLY SCHEDULE CONTRACTING

■ 2. Amend section 538.273 by removing from paragraph (b)(1) "Alternate II" and adding "Alternate I" in its place; and revising paragraph (b)(2) to read as follows:

### 538.273 Contract clauses.

* * * * *

(b) * * *

(2) 552.238–75, Price Reductions. Use Alternate I for Federal Supply Schedules with Transactional Data Reporting requirements. This alternate clause is used when vendors agree to include clause 552.238–74 Alternate I in the contract.

* * * * *

## PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

### 552.238–75 [Amended]

■ 3. Amend section 552.238–75 by—

■ a. Removing from paragraph (c)(2) "Government" and adding "eligible ordering activity" in its place;

■ b. Removing Alternate I; and

■ c. Redesignating Alternate II as Alternate I.

[FR Doc. 2016–15899 Filed 7–5–16; 8:45 am]

**BILLING CODE 6920–14–P**

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## DEPARTMENT OF TRANSPORTATION

## Federal Motor Carrier Safety Administration

## 49 CFR Part 392

**[Docket No. FMCSA–2015–0396]**

**RIN 2126–AB87**

## Driving of Commercial Motor Vehicles: Use of Seat Belts; Correction

**AGENCY:** Federal Motor Carrier Safety Administration, DOT.

**ACTION:** Final rule; correction.

**SUMMARY:** FMCSA corrects an error in its June 7, 2016, final rule "Driving of Commercial Motor Vehicles: Use of Seat Belts." The amendatory language in the final rule inadvertently limited the applicability of the requirement for drivers to use their seat belts to operators of property-carrying vehicles. Today's correction fixes the error such that drivers of passenger-carrying vehicles will continue to be required to wear their seat belts.

**DATES:** Effective August 8, 2016.

**FOR FURTHER INFORMATION CONTACT:** Charles A. Horan, Director; Carrier, Driver, and Vehicle Safety Standards, Office of Policy, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001 or by telephone at (202) 366–5370.

**SUPPLEMENTARY INFORMATION:** The Federal Motor Carrier Safety Administration published a document in the **Federal Register** of June 7, 2016 (81 FR 36474). In FR Doc. 2016–13099, published in the **Federal Register** of June 7, 2016, (81 FR 36474), § 392.16(a) was amended to inadvertently include the phrase "property-carrying." This correction removes the phrase "property-carrying.".

### § 392.16 [Corrected]

■ In rule FR Doc. 2016–13099, published on June 7, 2016 (81 FR 36474) make the following correction. On page 36479, in the third column, remove the words "property-carrying" from where it appears twice in paragraph (a) of § 392.16.

Issued on: June 28, 2016.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2016–15941 Filed 7–5–16; 8:45 am]

**BILLING CODE 4910–EX–P**

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 648

**[Docket No. 151210999–6348–02]**

**RIN 0648–XE709**

## Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Closure of the Mid-Atlantic Access Area to General Category Individual Fishing Quota Scallop Vessels

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS announces that the Mid-Atlantic Scallop Access Area will close to Limited Access General Category Individual Fishing Quota scallop vessels for the remainder of the 2016 fishing year as of the effective date below. After the effective date, no vessel issued a Limited Access General Category Individual Fishing Quota permit may fish for, possess, or land scallops from the Mid-Atlantic Scallop Access Area. Regulations require this action once it is projected that 100 percent of trips allocated to the Limited Access General Category Individual Fishing Quota scallop vessels for the Mid-Atlantic Scallop Access Area will be taken.

**DATES:** Effective 0001 hr local time, July 4, 2016, through February 28, 2017.

**FOR FURTHER INFORMATION CONTACT:** Shannah Jaburek, Fishery Management Specialist, (978) 282–8456.

**SUPPLEMENTARY INFORMATION:** The reader can find regulations governing fishing activity in the Sea Scallop Access Areas in 50 CFR 648.59 and 648.60. These regulations authorize vessels issued a valid Limited Access General Category (LAGC) Individual Fishing Quota (IFQ) scallop permit to fish in the Mid-Atlantic Scallop Access Area under specific conditions, including a total of 2,068 trips that may be taken by LAGC IFQ vessels during the 2016 fishing year. Section 648.60(g)(3)(iii) requires the Mid-Atlantic Scallop Access Area to be closed to LAGC IFQ permitted vessels for the remainder of the fishing year once the NMFS Greater Atlantic Regional Administrator determines that the allowed number of trips for fishing year 2016 are projected to be taken.

Based on trip declarations by LAGC IFQ scallop vessels fishing in the Mid-Atlantic Scallop Access Area, and analysis of fishing effort, NMFS projects that 2,068 trips will be taken as of July 4, 2016. Therefore, in accordance with § 648.60(g)(3)(iii), NMFS is closing the Mid-Atlantic Scallop Access Area is closed to all LAGC IFQ scallop vessels as of July 4, 2016. No vessel issued an LAGC IFQ permit may fish for, possess, or land scallops in or from the Mid-Atlantic Scallop Access Area after 0001 local time, July 4, 2016. Any LAGC IFQ vessel that has declared into the Mid-Atlantic Access Area scallop fishery, complied with all trip notification and observer requirements, and crossed the vessel monitoring system demarcation line on the way to the area before 0001, July 4, 2016, may complete its trip. This closure is in effect for the remainder of the 2016 scallop fishing year.

## Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

NMFS finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest and impracticable. The Mid-Atlantic Access Area opened for the 2016 fishing year on April 1, 2016. The regulations at § 648.60(g)(3)(iii) require this closure to ensure that LAGC IFQ scallop vessels do not take more than their allocated number of trips in the Mid-Atlantic Scallop Access Area. The projections of the date on which the LAGC IFQ fleet will have taken all of its allocated trips in an Access Area become apparent only as trips into the area occur on a real-time basis and as activity trends begin to appear. As a result, NMFS can only make an accurate projection very close in time to when the fleet has taken all of its trips. In order to propose a closure for purposes of receiving prior public comment, NMFS would need to make a projection based on very little information, which would result in a closure too early or too late. To allow LAGC IFQ scallop vessels to continue to take trips in the Mid-Atlantic Scallop Access Area during the period necessary to publish and receive comments on a proposed rule would likely result in vessels taking much more than the allowed number of trips in the Mid-Atlantic Scallop Access Area. Excessive trips and harvest from the Mid-Atlantic Scallop Access Area would result in excessive fishing effort in the area, where effort controls are critical, thereby undermining conservation objectives of the Atlantic Sea Scallop Fishery Management Plan and requiring more restrictive future management measures. Also, the public had prior notice and full opportunity to comment on this closure process when we put these provisions in place. Current regulations prohibit LAGC IFQ scallop vessels from fishing for, possessing, or landing scallops from this area after the effective date of this notification published in the **Federal Register**. NMFS further finds, pursuant to 5 U.S.C 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons stated above.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: June 30, 2016.

**Emily H. Menashes,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2016–15952 Filed 6–30–16; 4:15 pm]

**BILLING CODE 3510–22–P**

# Proposed Rules

**Federal Register**
Vol. 81, No. 129
Wednesday, July 6, 2016

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

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## NUCLEAR REGULATORY COMMISSION

## 10 CFR Part 20

**[NRC–2011–0162]**

**RIN 3150–AJ17**

## Consideration of Rulemaking To Address Prompt Remediation of Residual Radioactivity During Operation

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of public Webinar and request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is seeking additional input from the public, licensees, Agreement States, non-Agreement States, and other stakeholders on the need for potential rulemaking to address prompt remediation of residual radioactivity during the operational phase at licensed material sites and nuclear reactors. The NRC has not initiated a rulemaking, but is gathering information and seeking stakeholder input on this subject for developing a recommendation to the Commission regarding the need for further rulemaking. To aid in this process, the NRC is requesting comments on the issues discussed in Section II, "Specific Questions," in the Supplementary Information section of this document. Additionally, the NRC will hold a public Webinar and host a public meeting to facilitate the public's and other stakeholders' understanding of these issues and the submission of comments.

**DATES:** The public Webinar and meeting will be held in Rockville, Maryland on July 11, 2016, from 1:00 p.m. to 4:00 p.m. (EDT) to solicit public and stakeholder feedback. Submit comments on the issues discussed in this document by August 22, 2016. Comments received after this date will be considered if it is practical to do so.

**ADDRESSES:** You may submit comment by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2011–0162. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Marlayna Vaaler, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3178; email: *Marlayna.Vaaler@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

The NRC published the Decommissioning Planning Rule (DPR) in 2011 (76 FR 33512; June 17, 2011) with an effective date of December 17, 2012. The DPR applies to the operational phase of a licensed facility, and requires licensees to operate in a way to minimize spills, leaks, and other unplanned releases of radioactive contaminants into the environment. It also requires licensees to check periodically for radiological contamination throughout the site, including subsurface soil and groundwater. The DPR does not have a mandatory requirement for licensees to conduct radiological remediation during operation. In the Staff Requirements Memorandum (SRM), SRM–SECY–07–0177—Proposed Rule: Decommissioning Planning (10 CFR parts 20, 30, 40, 50, 70, and 72; RIN: 3150–AH45) (Agencywide Documents Access and Management System (ADAMS) Accession No. ML073440549) that approved the proposed DPR, the Commission directed the staff to "make further improvements to the decommissioning planning process by addressing remediation of residual radioactivity during the operational phase with the objective of avoiding complex decommissioning challenges that can lead to legacy sites." To assist in this process, the NRC staff held a public Webinar on July 25, 2011, during which input on a draft regulatory basis and a set of defined questions concerning a potential rulemaking was obtained from members of the public, licensees, Agreement States, non-Agreement States, and other interested persons. Additionally, interested persons were afforded an opportunity to provide written comments on the same issues (see 76 FR 42074; July 18, 2011). Based upon this input, the NRC staff revised its Draft Regulatory Basis (ADAMS Accession No. ML13109A281).

Subsequently, in SRM–SECY–12–0046—Options for Revising the Regulatory Approach to Groundwater Protection (ADAMS Accession No. ML121450704), the Commission directed the staff to continue the current regulatory approach for groundwater protection, including the recently imposed requirements contained in the DPR, and to solicit public comments on the technical basis for a proposed prompt remediation rule. The Commission also directed the staff to evaluate the pros and cons of moving forward with a proposed prompt remediation rulemaking, including the staff's initial analysis of whether the cost/benefit analysis satisfies the backfit requirements. The staff conducted an additional public meeting and Webinar on June 4, 2013 (see 78 FR 33008; June 3, 2013), and subsequently evaluated stakeholder comments. From this information, the staff identified the following three options for potential rulemaking on prompt remediation during the operational phase of facility life: (1) Proceed with rulemaking; (2) do not proceed with rulemaking; or (3) collect 2 years of information from implementation of the DPR before making a staff recommendation for potential rulemaking.

As a result of the ongoing discussions regarding the need for a prompt remediation regulation, SRM–SECY–13–0108—Staff Recommendations for Addressing Remediation of Residual Radioactivity During Operations (ADAMS Accession No. ML13354B759), instructed the staff to "collect 2 years of additional data from the implementation of the DPR. After collection and evaluation of the data and engaging stakeholders in a public meeting focused on operational experience from implementation of the Decommissioning Planning Rule, the staff should provide to the Commission a paper with the staff's recommendation for addressing remediation of residual radioactivity at licensed facilities during the operational phase of the facility.'' Now that the data collection period on the implementation of the DPR has come to a close, the NRC staff is collecting supplementary input from the public and other interested stakeholders to inform the staff's recommendation to the Commission regarding the need for additional rulemaking requiring prompt remediation during operation.

## II. Specific Questions

Currently, there are no NRC regulations that require licensees to promptly remediate radiological contamination. To enhance stakeholder engagement in making a recommendation to the Commission regarding whether additional rulemaking in this area is warranted, the staff is holding a Webinar, hosting a public meeting, and requesting feedback on the following questions to facilitate discussion with, and solicit input from, interested stakeholders.

The NRC has asked many of the following questions before, and received some public input. Several commenters stated that an additional rule for prompt remediation is not necessary; and that issues can be addressed either by existing rules or by site-specific action. Others stated the proposed thresholds are not appropriate and that interim remediation is not cost effective. Those who supported an additional rule pointed to cases where there is significant contamination, and drew parallels to other regulations that require early cleanup, such as the Resource Conservation and Recovery Act. The NRC is now seeking further stakeholder input on these questions given the approximately 3 years that have passed since implementation of the DPR:

1. Given the information on site radiological contamination gained as a result of the implementation of the Decommissioning Planning Rule, should the NRC proceed with additional rulemaking to address remediation of residual radioactivity during the operational phase? Why or why not?
2. Based on the information on site contamination obtained from facilities that have entered decommissioning, should the NRC proceed with additional rulemaking to address remediation of residual radioactivity during the operational phase? Why or why not?
3. If the NRC does implement a rule that requires prompt remediation of radioactive spills and leaks, what concentration, dose limits, or other threshold limits should trigger prompt remediation? Should the thresholds differ for soil versus groundwater contamination?
4. Should the NRC allow licensees to justify delaying remediation under certain conditions when the contaminant level exceeds the threshold limit? If yes, then what conditions should be used to justify a delayed remediation?
5. Should factors such as safety, operational impact, and cost be a basis for delaying remediation?
6. If the NRC implements a rule that allows licensees to analyze residual radioactivity to justify delaying remediation, then what should the licensee's analysis cover? For example, what kind of dose assessment, risk-assessments, and/or cost-benefit analyses should be performed to justify delayed remediation? What other types of analyses are relevant to this process?
7. If the NRC implements a rule that allows licensees to analyze residual radioactivity to justify delaying remediation, what role should the cost of prompt remediation versus remediation at the time of decommissioning play in the analysis? What are the overall costs and benefits of prompt remediation of residual radioactivity?
8. If the NRC implements a rule that allows licensees to analyze residual radioactivity to justify delaying remediation, what standards or criteria should a licensee use to demonstrate to the NRC that a sufficient justification to delay remediation has been met?
9. Are there any other alternatives beyond those discussed in the Draft Regulatory Basis document that the NRC should have considered to address prompt remediation?
10. What other issues should the NRC staff consider in developing a technical basis for a potential rulemaking to address prompt remediation of residual radioactivity during site operation?

## III. Public Webinar

To facilitate the understanding of the public and other stakeholders of these issues and the submission of comments, the NRC staff has scheduled a public Webinar for July 11, 2016, from 1:00 p.m. to 4:00 p.m. (EDT). Webinar participants will be able to view the presentation slides prepared by the NRC and electronically submit comments over the Internet. Participants must register to participate in the Webinar. Registration information may be found in the meeting notice (ADAMS Accession No. ML16179A220). The meeting notice can also be accessed through the NRC's public Web site under the heading for Public Meetings; see Web page *http://meetings.nrc.gov/pmns/mtg.* Those who are unable to participate via Webinar may also participate via teleconference. For details on how to participate via teleconference, please contact Marlayna Vaaler; telephone: 301–415–3178; email: *Marlayna.Vaaler@nrc.gov.*

## IV. Accessing Information and Submitting Comments

### *A. Accessing Information*

Please refer to Docket ID NRC–2011–0162 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2011–0162.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

### *B. Submitting Comments*

Please include Docket ID NRC–2011–0162 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in you comment submission. The NRC will post all comment submissions at *http://*

*www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

Dated at Rockville, Maryland, this 28th day of June, 2016.

For the Nuclear Regulatory Commission,

**Andrea L. Kock,**

*Deputy Director, Division of Decommissioning, Uranium Recovery and Waste Programs, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 2016–15949 Filed 7–5–16; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

### 19 CFR Part 149

**[USCBP–2016–0040]**

**RIN 1651–AA98**

## Definition of Importer Security Filing Importer

**AGENCY:** U.S. Customs and Border Protection, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Importer Security Filing and Additional Carrier Requirements regulations were implemented in 2009 as an interim final rule to improve CBP's ability to identify high-risk shipments in order to prevent smuggling and improve cargo safety and security. These regulations require certain cargo information to be submitted to CBP via an Importer Security Filing (ISF) before the cargo is loaded on a vessel that is destined to the United States. These regulations fulfill the requirements of section 203 of the SAFE Port Act of 2006 and section 343 of the Trade Act of 2002, as amended by the Maritime Transportation Security Act of 2002. The ISF Importer is the party that is required to file the ISF. This notice of proposed rulemaking (NPRM) proposes to expand the definition of ISF Importer for certain types of shipments to ensure that the party that has the best access to the required information will be the party that is responsible for filing the ISF.

**DATES:** Comments must be received on or before September 6, 2016.

**FOR FURTHER INFORMATION CONTACT:** Peyman Jamshidi, Program Manager, Vessel Manifest and Importer Security Filing, Office of Cargo and Conveyance Security, Office of Field Operations by email at: *PEYMAN.JAMSHIDI@cbp.dhs.gov.*

**ADDRESSES:** You may submit comments, identified by docket number, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments via docket number USCBP–2016–0040.
- *Mail:* Border Security Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

*Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* Submitted comments may also be inspected during regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Office of International Trade, Regulations and Rulings, U.S. Customs and Border Protection, 90 K Street NE., 10th Floor, Washington, DC 20229–1177. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

**SUPPLEMENTARY INFORMATION:**

### Background

After the terrorist attacks on September 11, 2001, CBP amended its regulations to require vessel carriers to electronically submit certain advance cargo information, including cargo declarations, to CBP no later than 24 hours before the cargo is laden aboard a vessel at a foreign port. *See* 19 CFR 4.7 and 4.7a. The rule was published in the **Federal Register** (67 FR 66318) on October 31, 2002. Its purpose was to enable CBP to identify high-risk cargo before the vessel arrived in the United States.

Section 203 of the Security and Accountability for Every Port Act of 2006 (Pub. L. 109–347, 120 Stat. 1884 (SAFE Port Act)) directed the Secretary of Homeland Security, acting through the Commissioner of CBP, to promulgate regulations to "require the electronic transmission to the Department [of Homeland Security] of additional data elements for improved high-risk targeting, including appropriate security elements of entry data, as determined by the Secretary, to be provided as advanced information with respect to cargo destined for importation into the United States prior to loading of such cargo on vessels at foreign seaports." Pursuant to this Act, and section 343(a) of the Trade Act of 2002 (19 U.S.C. 2071 note), CBP published an NPRM in the **Federal Register** on January 2, 2008 (73 FR 90), proposing to require importers and carriers to submit additional information pertaining to maritime cargo before the cargo is loaded on a vessel that is destined to the United States. The trade gave the proposed rule the shorthand name "10 + 2", which references the number of advance data elements CBP was proposing to collect. Importers, described in the proposed rule as Importer Security Filing Importers, would generally be required to submit 10 additional data elements (the 10 of "10 + 2"). Carriers would generally be required to submit two additional data elements (the 2 of "10 + 2").

On November 25, 2008, CBP published an interim final rule and solicitation of comments in the **Federal Register** (73 FR 71730, CBP Decision 08–46). The interim final rule was effective on January 26, 2009. However, a delayed compliance period of at least 12 months was provided to allow industry sufficient time to comply with the new requirements.

The interim final rule finalized most of the provisions of the NPRM, including all the provisions relating to the carrier requirements. The only portions of the NPRM that were not finalized were the six importer data elements for which CBP provided some flexibility regarding the time and/or manner of compliance. CBP solicited public comments on the flexibilities provided. CBP also invited comments on the revised Regulatory Assessment and Final Regulatory Flexibility Analysis. CBP has not yet published a final rule addressing the flexibilities and the Regulatory Assessment and Final Regulatory Flexibility Analysis.

## I. Summary of ISF Importer Requirements

The interim final rule added a new part 149 to the CBP regulations, entitled Importer Security Filing. The Importer Security Filing regulations require ISF Importers, as defined in 19 CFR 149.1, to transmit an ISF to CBP, for cargo other than foreign cargo remaining on board (FROB), no later than 24 hours before cargo is laden aboard a vessel destined to the United States. The transmission of the ISF filing for FROB is required any time prior to lading.

ISF Importers, or their agents, must submit 10 data elements to CBP for shipments consisting of goods intended to be entered into the United States and goods intended to be delivered to a foreign trade zone (FTZ). *See* 19 CFR 149.3(a). ISF Importers, or their agents, must submit five data elements to CBP for shipments consisting entirely of FROB and shipments consisting entirely of goods intended to be transported as Immediate Exportation (IE) or Transportation and Exportation (T&E) in-bond shipments. *See* 19 CFR 149.3(b).

## II. Proposed Amendment

This rulemaking proposes to expand the definition of the Importer Security Filing (ISF) Importer. Currently, an ISF Importer is generally defined in 19 CFR 149.1 as the party causing goods to arrive within the limits of a port in the United States by vessel.

The regulation provides that generally the ISF Importer is the goods' owner, purchaser, consignee, or agent such as a licensed customs broker. However, the regulation limits the definition of ISF Importer to certain named parties for foreign cargo remaining on board (FROB), immediate exportation (IE), and transportation and exportation (T&E) in-bond shipments, and for merchandise being entered into a foreign trade zone (FTZ). For FROB cargo, the regulation provides that the ISF Importer is the carrier; for IE and T&E in-bond shipments, and goods to be delivered to an FTZ, the regulation provides that the ISF Importer is the party filing the IE, T&E, or FTZ documentation.

Based on input from the trade as well as CBP's analysis, CBP has concluded that these limitations do not reflect commercial reality and, in some cases, designate a party as the ISF Importer even though that party has no commercial interest in the shipment and limited access to the ISF data. Therefore, as explained below, CBP is proposing to expand the definition of ISF Importer for FROB cargo, for IE and T&E shipments and for goods to be delivered to a FTZ.

### *1. Foreign Cargo Remaining on Board (FROB)*

Under the current definition, the ISF Importer for FROB shipments is the carrier. The interim final rule clarified that the carrier means the international carrier arriving in the United States, *i.e.,* vessel operating carrier. *See* 73 FR 71743. The rationale for requiring the vessel operating carrier to provide the ISF for FROB shipments was that ultimately it is the vessel operating carrier that decides to transport the cargo to the United States.

There is still much debate within the shipping community about who should be the ISF importer for FROB shipments. This debate stems from the relationship between vessel operating carriers and non-vessel operating common carriers (NVOCCs).[1] When a party wants to ship goods on a vessel, the party can either book the shipment directly with the vessel operating carrier or it can use an NVOCC who acts as an intermediary between the party shipping the goods and the vessel operating carrier.

When a party books a FROB shipment directly with a vessel operating carrier, the vessel operating carrier has direct access to the required ISF data and is able to file the ISF information with CBP. However, when a party uses an NVOCC, the vessel operating carrier frequently does not have access to the required ISF data elements. This is because the NVOCC may not want to share confidential business information with the vessel operating carrier, a potential competitor.

However, under the current definition of ISF Importer, the vessel operating carrier is always the ISF Importer for FROB shipments, even though it may not have access to the required information. In response to comments to the interim final rule, CBP addressed the issue of the NVOCC not sharing necessary ISF information with the vessel operating carrier by clarifying that the NVOCC can submit the ISF directly to CBP, if it does so as the vessel operating carrier's agent. *See* 73 FR 71744. Based on CBP's experience with the ISF program, CBP has concluded that the procedure of having the NVOCC act as the agent of the vessel operating carrier for FROB shipments is not effective. The current requirement has not facilitated the sharing of necessary ISF information between NVOCCs and vessel operating carriers and has not resulted in the filing of accurate information. Rather, this procedure has resulted in unclear lines of responsibility and has hampered CBP's enforcement of the ISF requirements.

In an effort to increase compliance and to ensure that the party that has direct access to ISF information is the party responsible for submitting the ISF to CBP, CBP is proposing to broaden the definition of an ISF Importer for FROB shipments to include NVOCCs. This change is consistent with the requirement of the SAFE Port Act, which provides that a requirement to provide information will be imposed on the party most likely to have direct knowledge of that information.[2]

Broadening the definition of ISF Importer to include NVOCCs is also consistent with the general definition that the ISF Importer means the party causing the goods to arrive within the limits of a port in the United States by vessel. The NVOCC acts as the party booking the shipment aboard the carrier and typically has advance knowledge of the voyage's itinerary, *i.e.,* whether the vessel will enter a U.S. port. By booking the shipment, the NVOCC is the party causing the goods to arrive in the United States. In these instances, not only will the NVOCC be the party most able to obtain the required ISF information, but it will be the party that causes the goods to arrive within the limits of a port in the United States as FROB cargo.

In some circumstances, the vessel operating carrier would be the party that causes the goods to arrive in the United States despite the NVOCC having booked the shipment. An example would be when an NVOCC books a shipment not initially scheduled to arrive in the United States, but the vessel is diverted to the United States by the vessel operating carrier. If the cargo remains on board the vessel at the U.S. port and is not discharged until it arrives at the originally scheduled foreign destination port, this would create FROB cargo. In this situation, the vessel operating carrier would be the party that caused the cargo to arrive in the United States and thus the party responsible for filing the ISF.

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[1] A non-vessel operating common carrier (NVOCC) means a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier. See 19 CFR 4.7(b)(3)(ii).

[2] The SAFE Port Act requires CBP to follow the parameters listed in the Trade Act of 2002, which provides that "the requirement to provide particular information shall be imposed on the party most likely to have direct knowledge of that information. Where requiring information from the party with direct knowledge of that information is not practicable, the regulations shall take into account how, under ordinary commercial practices, information is acquired by the party on which the requirement is imposed, and whether and how such party is able to verify the information. Where information is not reasonably verifiable by the party on which a requirement is imposed, the regulations shall permit that party to transmit information on the basis of what it reasonably believes to be true."

### *2. IE, T&E, and FTZ Cargo*

As provided in 19 CFR 149.1(a), the ISF Importer for IE and T&E in-bond shipments and for shipments of goods to be delivered to an FTZ is the party that files the IE, T&E, or FTZ documentation with CBP. CBP believes that this definition needs to be broadened because often the party responsible for filing the ISF did not cause the goods to arrive within the limits of a port in the United States, but is a commercially disinterested party at the time of filing and/or may not have access to the required ISF data.

IE and T&E entries are frequently not filed until after the cargo has arrived within limits of a port in the United States. Therefore, there is not yet a party that files the IE or T&E documentation 24 hours prior to lading. In some cases, the party that will be responsible for filing the ISF has not yet been identified. In addition, in some cases, the party that will file the IE or T&E documentation has no commercial interest in the underlying merchandise and that party is a commercially disinterested party 24 hours prior to lading. In these cases, the party filing the IE or T&E entries with CBP did not cause the goods to arrive within the limits of a port in the United States and is not the party most likely to have direct knowledge of the required information. To address this problem, the goods' owner, purchaser, consignee, or agent such as a licensed customs broker will commonly file the ISF–10 required for shipments intended to be entered into the United States, which consists of 10 data elements, as opposed to the ISF–5 required for IE and T&E shipments, which consists of five data elements.

Similarly, for goods being entered into an FTZ, the party filing the FTZ documentation is frequently a commercially disinterested party and/or is not the party most able to obtain the required information. For example, it is common for the FTZ operator to file the FTZ documentation with CBP. However, the FTZ operator is commonly not the party causing the goods to enter the limits of the port in the United States and is a commercially disinterested party 24 hours prior to lading. As a result, the party responsible for filing the ISF is not the party most likely to have direct knowledge of the required information.

To address these issues, CBP is proposing to expand the definition of ISF Importer for IE and T&E in-bond shipments, and for goods to be delivered to an FTZ, to also include the goods' owner, purchaser, consignee, or agent such as a licensed customs broker. These are the same parties that are currently included within the definition of ISF Importer for all shipments other than FROB, IE and T&E in-bond shipments, and goods to be delivered to a FTZ. By broadening the definition to include these parties, the responsibility to file the ISF for IE, T&E, and FTZ shipments will be with the party causing the goods to enter the limits of a port in the United States and most likely to have access to the required ISF information and not with a commercially disinterested party.

## III. Regulatory Analysis

### *A. Executive Orders 12866 and 13563*

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This proposed rule is a "significant regulatory action," although not an economically significant regulatory action, under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget has reviewed this proposed regulation.

Under current regulations, the party required to submit ISF is the party causing the goods to enter the limits of a port in the United States. However, the regulation limits the definition for FROB, IE, and T&E shipments as well as for merchandise being entered into a FTZ to certain named parties. Based on input from the trade as well as CBP's analysis, CBP has concluded that these limitations do not reflect commercial reality and, in some cases, designate a party as the ISF Importer even though that party has no commercial interest in the shipment and limited access to the ISF data. In some cases, the party responsible may not even be involved in the importation at the time the ISF must be filed. This causes confusion in the trade as to who is responsible for filing the ISF and raises confidentiality concerns as sometimes the private party with the information gives the information to the ISF importer who then sends it to CBP. Therefore, CBP is proposing to expand the definition of ISF Importer for FROB cargo, for IE and T&E shipments and for goods to be delivered to a FTZ. This change is consistent with the requirement of the SAFE Port Act, which provides that the requirement to file the ISF will be imposed on the party most likely to have direct knowledge of that information.

This proposed rule would modify the definition of the ISF Importer for FROB cargo, for IE and T&E shipments, and for goods to be delivered to a FTZ. The current definition causes confusion and confidentiality concerns. The current ISF Importer for FROB shipments is the vessel operating carrier. In cases where the shipper uses an intermediary, *i.e.*, NVOCC, the vessel operating carrier does not have access to certain of the required elements for confidentiality reasons—only the intermediary has this information. In most cases, the NVOCC chooses to file this information directly to CBP, sidestepping the confidentiality concerns, but the legal burden is on the vessel operating carrier so some NVOCCs feel pressured to share this information with the carrier. This regulation would define the ISF Importer for FROB cargo as the vessel operating carrier or the NVOCC. Under this regulation, the NVOCC, rather than the vessel operating carrier, would be the ISF Importer if it is the party in possession of the required information.

Likewise, the definition of ISF Importer causes confusion for IE and T&E cargo. The ISF Importer in these cases is the filer of the IE or T&E documentation. This causes confusion because the IE or T&E documentation often is not created until the cargo arrives in the United States. By contrast, ISF information must be submitted at least 24 hours prior to lading. The proposed rule would expand the definition of ISF Importer for IE and T&E in-bond shipments to also include the goods' owner, purchaser, consignee, or agent such as a licensed customs broker. The proposed rule would also make a similar change to the definition of the ISF Importer of FTZ cargo. With this change, the ISF Importer will be a party with a bona fide interest in the commercial shipment and access to the required data.

The modification of the definition of ISF Importer will simply shift the legal responsibility in some cases for filing the ISF from one party to another for a subset of the total cargo (FROB; IE and T&E; and FTZ cargo). For IE, T&E, and FTZ cargo, the party who is currently required to file the data may not yet even be involved in the transaction at the time the data must be submitted. In these cases another party that has the data such as the owner, purchaser, consignee, or agent often files the data, though they are not legally obligated to file it. Under this proposed rule, these parties who have the data will be included in the definition of the party responsible for filing the data. Since these parties are generally the ones currently submitting this data to CBP, this change will have no significant impact. In some rare instances, this proposed rule may shift the burden of filing from one party to another. For example, since the party currently responsible for filing may not be involved in the transaction at the time the data must be submitted, it could be one of several parties (*e.g.*, the owner, purchaser, consignee, or agent) that actually submits the information. Once this proposed rule is in effect, there will be clarity as to which party is responsible, which could change who actually submits the data. In the vast majority of cases, there will be no change in who submits the data, but it is possible that there will be a change. To the extent that there is a change in who actually submits the ISF data, there will be a shift in the time burden to do so from one party to the other. CBP estimates that submitting this information takes 2.19 hours at a cost of $50.14 per hour.[3] This loaded wage rate was estimated by multiplying the Bureau of Labor Statistics' (BLS) 2014 median hourly wage rate for Ship and Boat Captains and Operators ($32.73) by the ratio of BLS' average 2014 total compensation to wages and salaries for Transportation and Material Moving occupations (1.5319), the assumed occupational group for ship and boat captains and operators, to account for non-salary employee benefits.[4] [5]

Therefore, to the extent this proposed rule shifts the reporting burden from one party to the other, there will be a corresponding shift of $109.81 in opportunity cost per filing. CBP lacks data showing how often there would be a shift in the actual reporting burden as a result of this rule but it believes it to be very small and possibly zero. CBP requests comment on this matter.

For FROB, the ISF Importer must currently either obtain the information from a third party that has the necessary information or ask that the third party file the information directly to CBP. In some cases, the third party shares this information with the ISF Importer, but it usually files the data directly with CBP for confidentiality reasons. Under the proposed regulation, the party that has access to the ISF information would submit it directly to CBP. Since this third party is generally already providing the ISF information through the current ISF Importer or directly to CBP, this rule will not add a significant burden to these entities. As described above, to the extent that this rule shifts the reporting burden from one party to the other, there will be a corresponding shift of $109.81 in opportunity cost per filing. CBP lacks data showing how often there would be a shift in the actual reporting burden as a result of this rule but it believes it to be very small and possibly zero. CBP requests comment on this matter.

This proposed rule benefits all parties by eliminating the confusion surrounding the responsibility for the submission of ISF information. In addition, this rule would significantly reduce confidentiality concerns that may be caused by the current requirements. This rule would ensure the party with the best access to the information is the party who files the information, which will improve the accuracy of the information CBP uses for targeting. Finally, eliminating a step in the transmission process (sending the ISF information from the third party to the current ISF importer) will result in CBP getting the information sooner. Any extra time can be used for more extensive targeting.

### *B. Regulatory Flexibility Act*

This section examines the impact of the rulemaking on small entities as required by the Regulatory Flexibility Act (5 U.S.C. 603), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people).

In the Interim Final Rule establishing the ISF requirements (73 FR 71730; November 25, 2008, CBP Decision 08–46; Docket Number USCBP–2007–0077), CBP concluded that many importers of containerized cargo are small entities. The rule could affect any importer of containerized cargo so it could have an impact on a substantial number of small entities.

This impact, however, is very small. The modification of the definition of ISF Importer will simply shift the legal responsibility in some cases for filing the ISF from one party to another for a subset of the total cargo (FROB; IE and T&E; and FTZ cargo). For IE, T&E, and FTZ cargo, the party who is currently required to file the data may not yet even be involved in the transaction at the time the data must be submitted. In these cases another party such as the owner, purchaser, consignee, or agent often files the data, though they are not legally obligated to file it. Under this proposed rule, these parties will be included in the definition of the party responsible for filing the data. Since these parties are currently submitting this data to CBP, this change will have no significant impact. For FROB, the ISF Importer must currently either obtain the information from a third party that has the necessary information or ask that the third party file the information directly to CBP. In some cases, the third party shares this information with the ISF Importer, but it usually files the data directly with CBP for confidentiality reasons. Under the proposed regulation, CBP is expanding the definition of ISF Importer so that the party that has access to the ISF information would submit it directly to CBP as the ISF Importer. Since this third party is already providing the ISF information through the current ISF Importer or directly to CBP, this proposed rule will not add a significant burden to these entities.

For these reasons, CBP certifies that this rule will not have a significant economic impact on a substantial number of small entities.

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[3] This differs from the estimated wage rate on the most recent supporting statement for this information collection: OMB Control Number 1651–0001, available at: *http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201506-1651-003*, which is based on outdated data. We will update the wage rate in this supporting statement the next time the ICR is renewed.

[4] Source of median wage rate: U.S. Bureau of Labor Statistics. Occupational Employment Statistics, "May 2014 National Occupational Employment and Wage Estimates, United States—Median Hourly Wage by Occupation Code: 53–5020." Updated March 25, 2015. Available at *http://www.bls.gov/oes/2014/may/oes_nat.htm#53-0000.* Accessed June 15, 2015.

[5] The total compensation to wages and salaries ratio is equal to the calculated average of the 2014 quarterly estimates (shown under Mar., June, Sep., Dec.) of the total compensation cost per hour worked for Transportation and Material Moving occupations (26.62) divided by the calculated average of the 2014 quarterly estimates (shown under Mar., June, Sep., Dec.) of wages and salaries cost per hour worked for the same occupation category (17.3775). Source of total compensation to wages and salaries ratio data: U.S. Bureau of Labor Statistics. Employer Costs for Employee Compensation. *Employer Costs for Employee Compensation Historical Listing March 2004—December 2015*, "Table 3. Civilian workers, by occupational group: Employer costs per hours worked for employee compensation and costs as a percentage of total compensation, 2004–2015 by Respondent Type: Transportation and material moving occupations." June 10, 2015. Available at *http://www.bls.gov/ncs/ect/sp/ececqrtn.pdf.* Accessed June 15, 2015.

### *C. Unfunded Mandates Reform Act of 1995*

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA) requires agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This proposed rule is exempt from these requirements under 2 U.S.C. 1503 (Exclusions) which states that UMRA "shall not apply to any provision in a bill, joint resolution, amendment, motion, or conference report before Congress and any provision in a proposed or final Federal regulation that is necessary for the national security or the ratification or implementation of international treaty obligations."

### *D. Paperwork Reduction Act*

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), an agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB. The collections of information related to this NPRM are approved by OMB under collection 1651–0001.

### List of Subjects in 19 CFR Part 149

Arrival, Declarations, Customs duties and inspection, Freight, Importers, Imports, Merchandise, Reporting and recordkeeping requirements, Shipping, Vessels.

### Proposed Amendment to the Regulations

For the reasons stated in the preamble, DHS proposes to amend part 149 of title 19 of the Code of Federal Regulations (19 CFR part 149), as set forth below:

## PART 149—IMPORTER SECURITY FILING

■ 1. The authority citation for part 149 continues to read as follows:

**Authority:** 5 U.S.C. 301; 6 U.S.C. 943; 19 U.S.C. 66, 1624, 2071 note.

■ 2. Section 149.1(a) is revised to read as follows:

### § 149.1 Definitions.

(a) *Importer Security Filing Importer.* For purposes of this part, Importer Security Filing Importer (ISF Importer) means the party causing goods to arrive within the limits of a port in the United States by vessel. For shipments other than foreign cargo remaining on board (FROB), the ISF Importer will be the goods' owner, purchaser, consignee, or agent such as a licensed customs broker. For IE and T&E in-bond shipments, and goods to be delivered to an FTZ, the ISF Importer may also be the party filing the IE, T&E, or FTZ documentation. For FROB cargo, the ISF Importer will be the carrier or the non-vessel operating common carrier.

* * * * *

Dated: June 28, 2016.

**Jeh Charles Johnson,**

*Secretary.*

[FR Doc. 2016–15687 Filed 7–5–16; 8:45 am]

BILLING CODE 9111–14–P

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## POSTAL SERVICE

## 39 CFR Part 111

## Address Quality Census Measurement and Assessment Process

**AGENCY:** Postal Service™.

**ACTION:** Supplemental notice of proposed rulemaking.

**SUMMARY:** The Postal Service is revising its pending proposal to amend *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®), to include a newly proposed measurement and assessment procedure for evaluating address quality for mailers who enter eligible letter- and flat-size pieces of First-Class Mail® (FCM) and Standard Mail® that meet the requirements for Basic or Full-Service mailings.

**DATES:** Submit comments on or before August 5, 2016.

**ADDRESSES:** Mail or deliver written comments to the manager, Product Classification, U.S. Postal Service, 475 L'Enfant Plaza SW., Room 4446, Washington, DC 20260–5015. If sending comments by email, include the name and address of the commenter and send to *Product;Classification@usps.gov,* with a subject line of "Address Quality Census Measurement and Assessment Process." Faxed comments are not accepted.

You may inspect and photocopy all written comments, by appointment only, at USPS® Headquarters Library, 475 L'Enfant Plaza SW., 11th Floor North, Washington, DC 20260. These records are available for review on Monday through Friday, 9 a.m.–4 p.m., by calling 202–268–2906.

**FOR FURTHER INFORMATION CONTACT:** Heather Dyer, USPS Mail Entry, Phone: (207) 482–7217, email: *heather.l.dyer@usps.gov.*

**SUPPLEMENTARY INFORMATION:** On December 23, 2014, the Postal Service published a notice of proposed rulemaking (79 FR 76930–76931) to add a process for measuring address quality.

From that proposed rule, the mailing industry provided many insightful and valuable comments (outlined later in this document) to the Postal Service and requested that a revised proposed rule be published. Therefore, we are renaming and revising our original proposal, and publishing it with a request for additional comments. This proposed rulemaking is subject to both Postal Service management and Postal Regulatory Commission (PRC) approvals.

The Postal Service continues to look for opportunities to work with mailers to improve address quality and reduce undeliverable-as-addressed (UAA) mail. We have developed a newly proposed procedure, the Address Quality Census Measurement and Assessment Process, to measure address quality pertaining to move-related changes. This proposed process will allow the Postal Service to provide valuable feedback to mailers who enter eligible letter- and flat-size pieces of FCM and Standard Mail that meet the requirements for Basic or Full-Service mailings.

The Address Quality Census Measurement and Assessment Process will utilize a scorecard for mailers that conveys information on address hygiene as well as Move Update quality. The scorecard provides mailers with change-of-address (COA) data as well as details about mailpieces that are UAA.

Presently, one of the benefits of the Full-Service Intelligent Mail® program is free Address Change Service (ACS™) for mailpieces prepared in accordance with Full-Service requirements. In order to further encourage the adoption of Full-Service and to increase the number of mailers that receive address quality information, the Postal Service is proposing to extend free ACS to mailers who enter qualifying Basic automation and non-automation mailpieces that meet the criteria of the Address Quality Census Measurement and Assessment Process and to mailers that meet a Full-Service threshold of 95 percent along with other requirements, which are outlined later in this document.

Today, some mailers who enter Periodicals could potentially be charged for manual address correction notices on mailpieces using a Full-Service ACS Service Type IDentifier (STID). The Postal Service is proposing that mailers who enter Full-Service Periodicals mailings using a Full-Service ACS STID will not be required to receive or pay for manual address correction notices unless they are requested. Although mailers who enter Periodicals will be provided with address quality data, these mailpieces will not be subject to the Address Quality Census Measurement and Assessment Process.

**Terms**

To further clarify this document, several terms are defined below:

- *99 Percent Accurate Method:* Mailers who can demonstrate that their internal list management maintains address quality at 99 percent or greater accuracy for changes of address may be authorized to comply with the Move Update standard through the 99 Percent Accurate Method. The 99 Percent Accurate test is a computer-based process that performs Postal Service ZIP + 4® coding and change-of-address processing utilizing the customer's file as input. The 99 Percent Accurate test is accomplished by submitting the mailer's address file(s) to the Postal Service for processing.
- *Commercial Mailings:* The Postal Service offers lower prices for business mailings, because mailers perform some of the work that would otherwise have to be done by the Postal Service (for example, sorting the mail by ZIP Code™ or transporting the mail to a destination postal facility). Everyone benefits from "work-sharing." Mailers make an investment in time and technology while paying less postage, and the Postal Service's costs are reduced, while mail is expedited through the system. Among other requirements, commercial mailings must comply with the Move Update standard as outlined in the DMM so that UAA mail is minimized.
- *eDoc Submitter:* The electronic documentation (eDoc) Submitter is determined using the Customer Registration IDentifier (CRID) number that is used to upload the eDoc to the Postal Service for processing. The eDoc submitter most often is the Mail Preparer, but can also be the Mail Owner. All results of Address Quality Measurement will be displayed on the eDoc Submitter and Mail Owner scorecards; however, any additional postage assessments will be presented to the eDoc submitter.
- *Legal Restraint:* Mailers of First-Class Mail and First-Class Package Service pieces who assert they are restricted by law from incorporating Postal Service COA information onto their mailpieces without permission from addressees may request Postal Service approval to meet their Move Update standard using the Legal Restraint method. Such mailers must be able to clearly demonstrate how the use of a primary Move Update method would violate the law. (See the *Guide to Move Update* at *http://beta.postalpro.usps.com/node/1116*). Pieces that meet the requirements for the Legal Restraint method will be excluded from the Mailer Scorecard and the Address Quality Census Measurement and Assessment Process, as long as the mailpieces use the appropriate CRID or Mailer IDentifier (MID).
- *Mailer:* The term "mailer" within this document encompasses Mail Owners, Mail Preparers, and Mail Service Providers (MSPs).
- *Mailer Scorecard:* This is an electronic report that contains mail quality measurements and assessments on mailings over a calendar month for Move Update, Full-Service Intelligent Mail, eInduction®, and Seamless Acceptance. The Scorecard is accessible through the Business Customer Gateway (BCG) and provides views for both Mail Owners and Mail Service Providers (MSPs).
- *Non-qualifying Mailings:* The below non-qualifying mailpieces will be excluded from the Address Quality Census Measurement and Assessment Process and the Mailer Scorecard:
  - Mailpieces which are undeliverable due to an address change which is Temporary, Foreign, Moved Left No Address (MLNA), and Box Closed No Order (BCNO).
  - Mailpieces that are priced as single-piece.
  - Mailpieces that qualify for the Legal Restraint method.
  - Mailpieces without the documentation submitted electronically.
- *Qualifying Mailings:* An eDoc submitter is eligible for the Address Quality Census Measurement and Assessment Process when at least one of its mailings qualifies for Full-Service in a calendar month. Thereafter, when mailers enter eligible mailings of letter- and flat-size pieces of FCM and Standard Mail that meet the requirements for Basic or Full-Service mailings in a subsequent calendar month, the Address Quality Census Measurement and Assessment Process will be used, if the postage statement and supporting documentation are submitted electronically and a unique Intelligent Mail barcode (IMb®) is included in the eDoc.

**Summary of Industry Comments and USPS Responses**

The Postal Service appreciates all of the comments that were provided by the mailing industry. The valuable feedback was used to establish revised proposed requirements for the Address Quality Census Measurement and Assessment Process. Even though this is a proposed rule, we have chosen to include these insightful comments and replies, which can be used as FAQs to further clarify this document. The mailers' comments and corresponding USPS responses are outlined as follows:

*Mailer Comment*

If mailings are not in compliance with Move Update standards, why is it necessary to levy an additional charge or assessment?

*USPS Response*

As outlined in the DMM, commercial mailings must comply with the Move Update standard. Regardless of whether the Postal Service measures Move Update compliance through Mail Evaluation Readability Lookup INstrument (MERLIN®) verification or using the Address Quality Census Measurement and Assessment Process, failure to meet the Move Update standard may result in an additional postage assessment.

*Mailer Comment*

How does this proposed rule support the UAA objective?

*USPS Response*

The ability to observe UAA performance at the individual mailer or service provider level will benefit both the Postal Service and the mailing industry. This data will provide more information regarding the actual mailing performance. This data will provide mailers with viable information to assist with reducing UAA, improve their return on investment, and better understand anomalies that impact Move Update performance.

*Mailer Comment*

Since the Move Update verification process was implemented in 2008, has data shown a decrease in UAA mail volume?

*USPS Response*

Yes; since the implementation of Move Update in 2008, UAA volumes have declined:

- In 2008, there was an 11.2 percent decline in UAA volume. This reduction was nearly twice the overall decline in FCM volume of 6.4 percent.
- From 2008 through 2015, there was a decline of 37 percent in UAA volume, which resulted in a reduction for all mail classes of 2.8 billion UAA pieces.
- From 2008 through 2015, there was an overall decline of 43.8 percent in FCM forwarding volume from 1.6 billion pieces in 2008 to 0.9 billion pieces in 2015.

*Mailer Comment*

Currently, when mailing Periodicals, there is a requirement to pay for manual address corrections. Will this payment cease in conjunction with this proposal?

*USPS Response*

In this proposed rule, with regard to Full-Service Periodicals mailings, there will no longer be a requirement to receive or pay for manual address corrections, except when manual address correction notifications are specifically requested by the mailer or the mailpiece does not contain a Full-Service ACS STID.

*Mailer Comment*

For each STID, will the data for both COA errors and the total number of pieces be all-inclusive or be limited by services such as ACS?

*USPS Response*

The data will be inclusive of both ACS- and non-ACS-requested STIDs.

*Mailer Comment*

When mailers enter Periodicals, will there still be a requirement for address correction service?

*USPS Response*

Yes, mailers who enter Periodicals will still be required to meet the requirement for address correction service.

*Mailer Comment*

Does the Address Quality Census Measurement and Assessment Process apply to mailpieces that meet the criteria for single-piece prices, Legal Restraint, and the 99 Percent Accurate Method?

*USPS Response*

The Address Quality Census Measurement and Assessment Process will exclude mailpieces that are paid at the single-piece price and mailpieces that meet the requirements for the Legal Restraint alternative method, which will be based upon the CRID or MID of the mail owner who is approved for the exemption. In contrast, mailpieces entered under the 99 Percent Accurate Method were factored into the newly proposed Address Quality Census Measurement and Assessment Process error threshold, and these mailpieces will not be excluded from the new measurement process.

In addition to this proposed rule, the Postal Service intends to publish an additional proposed rule to provide further guidance on the Move Update standard. This document will propose that mailers who are authorized for the Legal Restraint Move Update alternative method be required to use an exclusive MID or multiple exclusive MIDs on their mailpieces for Legal Restraint mailings. This would allow the Postal Service to properly identify these types of mailpieces and, when appropriate, exclude the mailpieces from the Address Quality Census Measurement and Assessment Process. The mailer will not be able to use these MIDs for other types of mailpieces that do not fall under the Legal Restraint authorization. The Postal Service is working with the Legal Restraint mailers to identify these MIDs. All current Legal Restraint authorized mailers would be allowed a one-year transition period to begin use of the exclusive MIDs. The one-year transition period would be calculated starting from the date of their next annual Legal Restraint reauthorization.

*Mailer Comment*

If a mailer temporarily falls below the qualifying 75 percent Full-Service threshold for 30 days, what are the consequences?

*USPS Response*

There will no longer be a qualifying Full-Service percentage; the mailer need only submit one qualifying Full-Service mailing.

*Mailer Comment*

If a mailer does not enter mailings meeting the 75 percent Full-Service threshold, how will address quality be measured?

*USPS Response*

To be measured under the Address Quality Census Measurement and Assessment Process, there will no longer be a 75 percent Full-Service threshold. For mailers whose CRID does not present any Full-Service mailings, the address quality will be measured through the traditional MERLIN verification process, and the mailer must declare that an approved Postal Service Move Update method was used. An eDoc submitter will be eligible for the Address Quality Census Measurement and Assessment Process when at least one of its mailings qualifies for Full-Service in a calendar month. Thereafter, all mailings of letter- and flat-size pieces of FCM and Standard Mail that meet the requirements for Basic or Full-Service mailings entered in a subsequent calendar month will use the Address Quality Census Measurement and Assessment Process, if the postage statements and supporting documentation are submitted electronically and unique IMbs are included in the eDoc.

*Mailer Comment*

When MSPs prepare a combined mailing (multiple Mail Owners), will a fee be assessed if the COA percentage measured for one of the Mail Owners exceeds the error threshold, but the COA percentage measured for the submitter of the eDoc does not exceed the threshold?

*USPS Response*

If a combined mailing (with multiple Mail Owners) is entered and the COA percentage does not exceed the Address Quality Census Measurement and Assessment Process error threshold, no fee would be assessed, because the fee is assessed at the eDoc submitter level.

*Mailer Comment*

When there is a combined mailing (with multiple Mail Owners), what is the process for ensuring that the correct mailer is assessed for exceeding the error threshold?

*USPS Response*

For a combined mailing, the Mailer Scorecard and the Mail Entry Assessment Report allow the Postal Service to provide detailed piece-level information and identify Mail Owners who exceed the established Address Quality Census Measurement and Assessment Process error threshold. While the eDoc submitter will pay the assessment to the Postal Service, there will be adequate information for the eDoc submitter to seek reimbursement from the applicable Mail Owner.

*Mailer Comment*

Can the Postal Service clearly outline the appeal process for postage assessments?

*USPS Response*

To appeal postage assessments, the dispute process is available on PostalPro™ at *http://beta.postalpro.usps.com/node/847* and steps are outlined within the *Guide to Postage Assessment* as follows:

- Mailings are evaluated based on an entire calendar month.
- If thresholds are exceeded, an invoice is generated and a Mail Entry Assessment Notification is sent on the 10th of the month (for the previous month's mailing activity).
- Notifications for all assessments will be sent to the eDoc submitter.
- An assessment notification is sent by email to the individual designated by the mailer for each CRID in BCG as the Verification Assessment Evaluator

(VAE). Mailers can also review assessment information through the Mailer Scorecard.

- VAE accesses BCG and pays invoice.
- If a VAE is not in agreement with the charges, the VAE may dispute charges by requesting a review and providing supporting documentation within 10 days of assessment notification.
- Business Mail Entry (BME) reviews the documentation and contacts the mailer with results.

*Mailer Comment*

Will there be changes to the National Change of Address Linkage System (NCOA$^{\text{Link}}$®)?

*USPS Response*

Currently, there are no changes to the database for NCOA$^{\text{Link}}$ which would affect a mailer's ability to use the product or comply with Move Update requirements. If such changes are anticipated, the Postal Service is always willing to work with mailers to mitigate impacts.

*Mailer Comment*

Is it the intent of the Postal Service to make ACS the default source for Move Update changes and eliminate the other methods (NCOA$^{\text{Link}}$ Mail Processing Equipment (MPE), Ancillary Service Endorsement (ASE), and NCOA$^{\text{Link}}$)?

*USPS Response*

The Postal Service has no intention of making ACS the default source for Move Update or eliminating any of the other USPS-approved Move Update methods.

*Mailer Comment*

Will the traditional ACS be free and postage statements be modified to reflect these new changes?

*USPS Response*

In general, the traditional ACS fees will not be waived. The postage statements will be modified to incorporate all new changes.

*Mailer Comment*

What mechanisms are in place to correct erroneous information in the Mailer Scorecard?

*USPS Response*

The Postal Service is working internally to validate the Mailer Scorecard. All known systemic issues are currently being addressed. In addition, a task team consisting of both Postal Service and Mailing Industry representatives is validating the reliability and stability of the Mailer Scorecard and all corresponding reports. After the assessment period begins, if new issues are identified, the Postal Service will remove all applicable charges resulting from USPS systemic issues.

*Mailer Comment*

Under the new measurement process, what is the actual assessment fee for mailpieces that exceed the established error threshold?

*USPS Response*

The address quality assessment fee has not been determined and is subject to USPS management and regulatory approval.

*Mailer Comment*

Will the address quality assessment fee vary based on the disposition activity (forwarded, returned, or destroyed) of the mailpieces in question?

*USPS Response*

No; the address quality assessment fee will be the same for all mailpieces that exceed the established Address Quality Census Measurement and Assessment Process error threshold, regardless of whether they are forwarded, returned, or destroyed.

*Mailer Comment*

What happens if mail is mistakenly run through MERLIN? Is there a risk of double jeopardy?

*USPS Response*

If mail is mistakenly processed on MERLIN, there will be no risk of double jeopardy. Once mailers qualify for the Address Quality Census Measurement and Assessment Process, they will be removed from the MERLIN Move Update verification process. Prior to the implementation of the Address Quality Census Measurement and Assessment Process, all Postal Service acceptance employees will be trained. However, if a mailing is mistakenly processed on MERLIN and additional postage under that method is assessed, the associated assessment fee will be removed.

*Mailer Comment*

Will MERLIN be used for evaluating mail in the future?

*USPS Response*

MERLIN will still be used to measure Move Update compliance for those mailers who enter mailings that do not meet the requirements to be evaluated under the newly proposed Address Quality Census Measurement and Assessment Process.

*Mailer Comment*

Will the error threshold for the newly proposed process be applied at the Mail Owner or CRID level?

*USPS Response*

The error threshold for the new proposed Address Quality Census Measurement and Assessment Process will apply to the eDoc submitter at the CRID level.

*Mailer Comment*

Regarding assessments, it is recommended that the Postal Service focus on the individual Mail Owner, which will allow the MSP to be free from the onerous task of determining who should pay an assessment fee.

*USPS Response*

The Postal Service is providing specific data to assist the MSP with identifying the Mail Owners who are exceeding the established Address Quality Census Measurement and Assessment Process error threshold and contributing to the assessment fee.

*Mailer Comment*

When the Mail Preparer performs the Move Update functions, will the Postal Service negotiate the credit between the Mail Owner and MSP?

*USPS Response*

All assessments will be remitted to the eDoc submitter for payment; negotiations between the Mail Owner and MSP will not be managed by the Postal Service.

*Mailer Comment*

How will the Postal Service ensure that the data from the MicroStrategy Report within the Mailer Scorecard is reliable?

*USPS Response*

An internal Postal Service team as well as a task team consisting of both Postal Service and Mail Industry representatives will validate the data integrity of the MicroStrategy Reports and Mailer Scorecard. These reports outline detailed mailpiece data for errors that are captured.

*Mailer Comment*

Will there still be two different databases relative to address changes, *i.e.* Postal Automated Redirection System (PARS) vs. NCOA$^{\text{Link}}$?

*USPS Response*

Yes, two separate databases will continue to exist as follows:

- PARS: This database has 18 months of COA data for processing UAA mail.

- NCOA$^{\text{Link}}$: This database holds up to 48 months of COA data for updating mailing lists.

*Mailer Comment*

Does the United States Postal Inspection Service (USPIS) agree with the newly proposed measurement process, and how will investigations be determined?

*USPS Response*

Yes, USPIS agrees with the decision to utilize the newly proposed Address Quality Census Measurement and Assessment Process, which allows the Postal Service to leverage technology. Also, USPIS will continue to collaborate with the Postal Service on all matters, including the determination of whether investigations are warranted.

**Background**

The Postal Service requires mailers to update address-related changes through the Move Update requirements process. Currently, Move Update compliance is measured at the mailing level using MERLIN as follows:

- At the point of acceptance, mailings are randomly selected for address quality assessment, and samples of the selected mailings are processed through MERLIN.
- *PostalOne!*® sends an electronic version of the mailer's Postage Statement Message (PSM) to the MERLIN Maintenance and Operations Database (MMOD).
- MMOD routes the PSM to the appropriate site and MERLIN machine.
- Postal Service personnel generate a verification report, and the report produces a set of results that are routed back to the MMOD system.
- MERLIN generates a report that provides the details on mail quality.
- MMOD sends an Address Quality Validation System (AQVS) message-stream of addresses, names, and ZIP Codes to the National Customer Support Center (NCSC) for Move Update processing.
- MERLIN captures the address information from the mailpiece and electronically sends each record to the NCSC to see if there is a COA on file.
- The piece is identified as an error if the mailer did not use the updated address indicated in the COA on file, and the COA "filing date" is between 95 days and 18 months of the postage statement finalization date.
- MMOD sends mail verification results (whether the mailer passed) to the *PostalOne!* System.
- NCSC processes the AQVS data stream and sends the results to *PostalOne!*, which addresses the Move Update failures.
- *PostalOne!* uses the mail verification and NCSC Move Update results to formulate the final charges.

In 2013, the Postal Service introduced the concept of measuring and assessing mail quality for mailings over a calendar month for Full-Service Intelligent Mail, eInduction, and Seamless Acceptance. Since August 2014, Postal Service technology has further evolved so that, when mailers use an IMb and submit their postage statements and supporting documentation electronically, data collection scans from mail processing equipment (MPE) can be used to evaluate the address and move-related quality of mail being processed. Accordingly, the Postal Service is using this technology as an alternative to measure and evaluate the quality of mailings.

**Future Process**

The Postal Service is proposing to add a Move Update compliance verification process named the Address Quality Census Measurement and Assessment Process for letter- and flat-size pieces of FCM and Standard Mail that meet the requirements for Basic or Full-Service mailings.

Mailers of Periodicals will be provided with address quality data; however, Periodicals will not fall under the Address Quality Census Measurement and Assessment Process. This newly proposed process will result in several benefits including enhanced mailing visibility and improved mail quality metrics over all mailings within a calendar month, rather than sampled mailings.

This process is a much more robust method to assess Move Update compliance, which would be measured across all mailings within a calendar month according to the following process:

- Mailpieces are scanned on MPE.
- Data from mailpieces identified as UAA is captured and evaluated to determine if COA information is on file.
- The address information for mailpieces matching an active COA is captured from the piece and sent electronically to NCSC.
- NCSC forwards COA information to the Address Quality Census Measurement and Assessment Process for evaluation.
- Move Update validations are performed by comparing the MID + Serial Number of the IMb from the COA-related mailpiece data. If the COA is between 95 days and 18 months old, and the address has not been updated, then a COA error for the associated IMb is logged and allocated under the CRID of the eDoc submitter.
- The proposed Address Quality Census Measurement and Assessment Process error threshold that is under consideration is 0.5 percent. This threshold, which is subject to review at the PRC, would be applied to all pieces submitted by an eDoc submitter in a calendar month.
- The Postal Service would assess the relevant eDoc submitter CRID for each non-compliant mailpiece beyond the threshold.
- The data would be collected and reported on the Mailer Scorecard under the eDoc submitter CRID.

**Address Quality Assessment Fee**

The address quality assessment fee will be applied to mailpieces in qualifying mailings that contain COA errors in excess of the established Address Quality Census Measurement and Assessment Process error threshold. This address quality assessment fee is currently pending management and regulatory approval.

Once the Address Quality Census Measurement and Assessment Process is in place, qualifying mailings will no longer be required to document Move Update compliance methods on the postage statement, *mail.dat*, or *mail.xml*. However, documents demonstrating the method used should be available upon request by the Postal Service, and mailers must continue to use a Move Update method in order to remain below the Address Quality Census Measurement and Assessment Process error threshold, expedite the delivery of mail by avoiding mail forwarding, and increase the security and privacy of sensitive customer information.

**Mailer Scorecard**

The Mailer Scorecard is currently available to mailers. This report provides data that allow mailers to gauge address quality on their mailpieces. After the final rule is implemented and the PRC review is completed, mailings with errors that exceed the newly proposed Address Quality Census Measurement and Assessment Process error threshold will incur an address quality assessment fee.

**Criteria**

The Address Quality Census Measurement and Assessment Process will apply to mailings when mailers:

- Submit any mailpieces during a calendar month as Full-Service.
- Use a unique Basic or Full-Service IMb on mailings of letter- and flat-size pieces for FCM and Standard Mail.
- Use eDoc to submit mailing information.

**Specifications**

After the test period commences, address quality will be measured as follows:

- Analysis will be performed on all pieces in the mailing, rather than on a sample.
- The assessment will be determined by the number of COA errors, in a calendar month, divided by the total number of pieces mailed that were subject to analysis. The resulting percentage will be compared to the established Address Quality Census Measurement and Assessment Process error threshold.
- There are a number of exclusions to the measurement and assessment process. Generally, mailpieces with addresses that have the following COA characteristics will not be included in the assessment: Temporary moves, MLNA, BCNO, and COA data for foreign addresses.
- Mailpieces authorized for the Legal Restraint alternate Move Update method (See *Guide to Move Update*) will be excluded at the CRID level of the Mail Owner, during a short transition period. After the transition period, an established MID will be identified for use on mailpieces that fall under the Legal Restraint method.

**Mailpiece Results**

Once qualifying mailings are processed on MPE, the data from mailpieces are reconciled with eDoc. These results are available on the BCG and displayed on the Electronic Verification tab of the Mailer Scorecard, which can be easily accessed at *https://gateway.usps.com/eAdmin/view/signin.* Mailers are able to review the Mailer Scorecard and corresponding detailed reports to identify any anomalies or issues.

To resolve Mailer Scorecard irregularities, mailers should contact the *PostalOne!* ® Help Desk at 800–522–9085 or their local Business Mail Entry Unit (BMEU).

**Address Change Service and Correction Notifications**

In order to further encourage the adoption of Full-Service, the Postal Service is proposing to extend free Full-Service ACS to qualifying Basic automation and non-automation mailpieces for mailers who enter at least 95 percent of their mail as Full-Service in a calendar month. The Basic mailpieces must be prepared as follows:

- Bear a unique IMb printed on the mailpiece.
- Include a Full-Service ACS or OneCode ACS® STID in the IMb.
- Include the unique IMb in eDoc.
- Provide accurate mail owner identification in eDoc.

Address change information will be provided to the Mail Owner identified in eDoc. Address change information which does not qualify for free ACS will continue to be provided through SingleSource at the appropriate charge.

As part of this proposed rule, mailers who enter mailings of Full-Service Periodicals would no longer be required to receive and pay for manual address corrections when a Full-Service ACS STID is used. However, these mailers may elect to receive and pay for manual address correction notifications by including the appropriate STID within the IMb.

**List of Subjects in 39 CFR Part 111**

Administrative practice and procedure, Postal Service.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comments on the following proposed revisions to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. *See* 39 CFR 111.1. Accordingly, 39 CFR part 111 is proposed to be amended as follows:

## PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), as follows:

***Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM)**

* * * * *

**507 Mailer Services**

**1.0 Treatment of Mail**

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**1.5 Treatment for Ancillary Services by Class of Mail**

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**1.5.2 Periodicals**

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*[Revise 507.1.5.2c by changing the last word of the sentence to "received" as follows:]*

c. Address correction service is mandatory for all Periodicals publications, and the address correction service fee must be paid for each notice received.

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**4.0 Address Correction Services**

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**4.2 Address Change Service (ACS)**

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**4.2.2 Service Options**

*[Revise 507.4.2.2 by modifying the introductory sentence and adding a new item "d" as follows:]*

ACS offers four levels of service, as follows:

* * * * *

d. A Full-Service option available to mailings of First-Class Mail automation cards, letters, and flats; Standard Mail automation letters and flats; Standard Mail Carrier Route, High Density, and Saturation letters; Periodicals Outside County barcoded or Carrier Route letters and flats; Periodicals In-County automation or Carrier Route letters and flats; and Bound Printed Matter Presorted, non-DDU barcoded flats. Mailers who present at least 95 percent of their eligible First-Class Mail and Standard Mail volume as Full-Service in a calendar month will receive electronic address correction notices for their qualifying mailpieces of Basic automation and non-automation First-Class Mail and Standard Mail at the address correction fee for pieces which are eligible under the Full-Service Intelligent Mail option in 705.23.0, for the next calendar month. The Basic First-Class Mail and Standard Mail mailpieces must:

1. Bear a unique IMb printed on the mailpiece.
2. Include a Full-Service or OneCode ACS STID in the IMb.
3. Include the unique IMb in eDoc.
4. Provide accurate mail owner identification in eDoc.

* * * * *

**4.2.8 Address Correction Service Fee**

*[Revise 507.4.2.8 by deleting the current language and adding new language as follows:]*

ACS fees will be assessed as follows:

a. The applicable fee for address correction is charged for each separate notification of address correction or the reason for nondelivery provided, unless an exception applies.

b. Once the ACS fee charges have been invoiced, any unpaid fees for the prior invoice cycle (month) will be assessed an annual administrative fee of 10 percent for the overdue amount.

c. Mailers who present at least 95 percent of their eligible First-Class Mail and Standard Mail volume as Full-Service in a calendar month will receive electronic address correction notices for their qualifying Basic automation and non-automation First-Class Mail and Standard Mail mailpieces, as specified in 4.2.2. The electronic address correction notices are charged at the applicable Full-Service address correction fee for the next calendar month.

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### 600 Basic Mailing Standards for All Mailing Services

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### 602 Addressing

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### 5.0 Move Update Standards

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### 5.3 Basis for Move Update Assessment Charges

*[Revise 602.5.3 by removing the current language and adding new 5.3.1. and 5.3.2 as follows:]*

### 5.3.1 Basic Move Update Assessment Charge

Mailings that do not fall under 5.3.2 are subject to a Move Update assessment charge, if more than 30 percent of addresses with a change-of-address (COA) are not updated, based on the error percent found in Postal Service sampling at acceptance during Performance-Based Verification. Specifically, mailings for which the sample contains greater than 30 percent failed COAs out of the total COAs in the sample are subject to additional postage charges as follows:

a. The percentage of the mailing paying the charge is based on the percentage of failed pieces above 30 percent.

b. Each of the assessed pieces is subject to the established per piece charge.

c. As an example, if 40 percent of COAs in the sample are not updated, then the charge is applied to 10 percent (= 40% − 30%) of the total mailing.

d. Mailings for which the sample has five or fewer pieces that were not updated for a COA are not subject to the assessment, regardless of the failure percentage.

### 5.3.2 Address Quality Census Measurement and Assessment Charge

Mailers who have submitted any Full-Service volume in a calendar month will be subject to the Address Quality Census Measurement and Assessment Process beginning in the next calendar month. Mailings will be subject to the Address Quality Census Measurement Assessment charge (address quality assessment fee) if submitted via eDoc with unique Basic or Full-Service IMbs on letter- and flat-size pieces of First-Class Mail and Standard Mail. The address quality assessment fee will be assessed if:

a. The percent of all qualifying mail submitted in a calendar month that have a COA error is greater than the Address Quality Census Measurement and Assessment Process error threshold, as determined by an analysis of the data captured by mail processing equipment. A COA error occurs when the address on the mailpiece has not been updated within 95 days of the COA move effective date or the COA record creation date, whichever is later.

b. Each mailpiece with addresses containing COA errors in excess of the Address Quality Census Measurement and Assessment Process error threshold will pay the address quality assessment fee.

### 5.4 Mailer Certification

*[Revise 602.5.4 by modifying introductory paragraph and adding new items "a" and "b" as follows:]*

The mailer's signature on the postage statement certifies that the Move Update standard has been met for each address in the corresponding mailing presented to the USPS as follows:

a. For mailings that fall under 5.3.1, the mailer's signature on the postage statement certifies that the Move Update standard has been met for each address in the corresponding mailing presented to the Postal Service.

b. For mailings that fall under 5.3.2, the Move Update compliance method does not need to be declared on the postage statement or within the mail.dat or mail.xml file. However, documentation demonstrating compliance must be retained and provided upon request of the Postal Service.

* * * * *

### 700 Special Standards

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### 705 Advanced Preparation and Special Postage Payment Systems

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### 23.0 Full-Service Automation Option

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### 23.5 Additional Standards

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### 23.5.2 Address Correction Notices

*[Revise 705.23.5.2a as follows:]*

a. Address correction notices will be provided at the applicable Full-Service address correction fee for letters and flats eligible for the Full-Service option, except for Standard Mail ECR flats, BPM flats dropshipped to DDUs, or BPM carrier route flats. Mailers who present at least 95 percent of their eligible First-Class Mail and Standard Mail volume as Full-Service in a calendar month will receive electronic address correction notices for their qualifying Basic automation and non-automation First-Class Mail and Standard Mail pieces charged at the applicable Full-Service address correction fee for the next calendar month. The Basic automation and non-automation First-Class Mail and Standard Mail mailpieces must:

1. Bear a unique IMb printed on the mailpiece.
2. Include a Full-Service or OneCode ACS STID in the IMb.
3. Include the unique IMb in eDoc.
4. Provide accurate mail owner identification in eDoc.

* * * * *

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes, if our proposal is adopted.

**Stanley F. Mires,**

*Attorney, Federal Compliance.*

[FR Doc. 2016–15649 Filed 7–5–16; 8:45 am]

**BILLING CODE 7710–12–P**

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## DEPARTMENT OF ENERGY

## 48 CFR Parts 915, 934, 942, 944, 945, and 952

## RIN 1991–AC01

## Acquisition Regulation: Contractor Business Systems—Definition and Administration

**AGENCY:** Department of Energy.

**ACTION:** Proposed rulemaking; withdrawal.

**SUMMARY:** On April 1, 2014, the U.S. Department of Energy (DOE) published a rule in the **Federal Register** proposing to amend the Department of Energy Acquisition Regulation (DEAR). DOE hereby withdraws this proposed rule.

**DATES:** The proposed rule that appeared in the **Federal Register** on April 1, 2014 at 79 FR 18415 is withdrawn as of July 6, 2016.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Tiedeman, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue

SW., Washington, DC 20585–0121. Telephone: (202) 287–6111. Email: *Jennifer.Tiedeman@hq.doe.gov.*

**SUPPLEMENTARY INFORMATION:** On April 1, 2014, the U.S. Department of Energy (DOE) published a rule proposing to amend the Department of Energy Acquisition Regulation (DEAR) to define contractor business system as an accounting system, estimating system, purchasing system, earned value management system (EVMS), and property management system (79 FR 18415). In the proposed rulemaking, DOE proposed to implement compliance enforcement mechanisms in the form of a contractor business system clause and related clauses that included a provision that would allow contracting officers to withhold a percentage of payments, under certain conditions, when a contractor's business system contained significant deficiencies. However, the Department has determined that it will not proceed with the rulemaking and, as such, is withdrawing the proposed rule.

Issued in Washington, DC, on June 23, 2016.

**Berta Schreiber,**

*Director, Office of Acquisition Management, Department of Energy.*

**Joseph Waddell,**

*Deputy Associate Administrator, Acquisition and Project Management, National Nuclear Security Administration.*

[FR Doc. 2016–15937 Filed 7–5–16; 8:45 am]

**BILLING CODE 6450–01–P**

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## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

**[4500030113]**

# Endangered and Threatened Wildlife and Plants; 12-Month Findings on Petitions To List the Eagle Lake Rainbow Trout and the Ichetucknee Siltsnail as Endangered or Threatened Species

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 12-month petition findings.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce 12-month findings on petitions to list the Eagle Lake rainbow trout and the Ichetucknee siltsnail as endangered species or threatened species under the Endangered Species Act of 1973, as amended (Act). After a review of the best available scientific and commercial information, we find that listing the Eagle Lake rainbow trout and the Ichetucknee siltsnail is not warranted at this time. However, we ask the public to submit to us at any time any new information that becomes available concerning the stressors to the Eagle Lake rainbow trout and the Ichetucknee siltsnail or their habitats.

**DATES:** The findings announced in this document were made on July 6, 2016.

**ADDRESSES:** These findings are available on the Internet at *http://www.regulations.gov* at the following docket numbers:

| Species | Docket No. |
|---|---|
| Eagle Lake rainbow trout. | FWS–R8–ES–2012–0072 |
| Ichetucknee siltsnail | FWS–R4–ES–2011–0049 |

Supporting information used in preparing these findings is available for public inspection, by appointment, during normal business hours, by contacting the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**. Please submit any new information, materials, comments, or questions concerning these findings to the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT.**

**FOR FURTHER INFORMATION CONTACT:**

| Species | Contact information |
|---|---|
| Eagle Lake rainbow trout. | Jen Norris, Field Supervisor, Sacramento Fish and Wildlife Office, (916) 414–6600. |
| Ichetucknee siltsnail. | Jay B. Herrington, Field Supervisor, North Florida Ecological Services Office, (904) 731–3191. |

If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

### Background

Section 4(b)(3)(B) of the Act (16 U.S.C. 1531 *et seq.*) requires that, for any petition to revise the Federal Lists of Endangered and Threatened Wildlife and Plants that contains substantial scientific or commercial information indicating that listing an animal or plant species may be warranted, we make a finding within 12 months of the date of receipt of the petition ("12-month finding"). In this finding, we determine whether listing the Eagle Lake rainbow trout and the Ichetucknee siltsnail is: (1) Not warranted; (2) warranted; or (3) warranted, but the immediate proposal of a regulation implementing the petitioned action is precluded by other pending proposals to determine whether species are endangered or threatened species, and expeditious progress is being made to add or remove qualified species from the Federal Lists of Endangered and Threatened Wildlife and Plants (warranted but precluded). Section 4(b)(3)(C) of the Act requires that we treat a petition for which the requested action is found to be warranted but precluded as though resubmitted on the date of such finding, that is, requiring a subsequent finding to be made within 12 months. We must publish these 12-month findings in the **Federal Register**.

### Summary of Information Pertaining to the Five Factors

Section 4 of the Act (16 U.S.C. 1533) and the implementing regulations in part 424 of title 50 of the Code of Federal Regulations (50 CFR part 424) set forth procedures for adding species to, removing species from, or reclassifying species on the Federal Lists of Endangered and Threatened Wildlife and Plants. The Act defines "endangered species" as any species that is in danger of extinction throughout all or a significant portion of its range, section 3(6), and "threatened species" as any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range, section 3(20). Under section 4(a)(1) of the Act, a species may be determined to be an endangered species or a threatened species based on any of the following five factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

We summarize below the information on which we based our evaluation of the five factors provided in section 4(a)(1) of the Act in determining whether the Eagle Lake rainbow trout and the Ichetucknee siltsnail meet the definition of an endangered species or threatened species. More detailed information about these species is presented in the species-specific assessment forms found on *http://www.regulations.gov* under the appropriate docket number (see **ADDRESSES**). In considering what stressors under the five factors might constitute threats, we must look beyond the mere exposure of the species to the factor to determine whether the species responds to the factor in a way that causes actual impacts to the species. If there is exposure to a factor, but no response, or only a positive response, that factor is not a threat. If there is exposure and the species responds negatively, the factor may be a threat. In that case, we determine if that stressor rises to the level of a threat, meaning that it may drive or contribute to the risk of extinction of the species such that the species warrants listing as an endangered or threatened species as those terms are defined by the Act. This does not necessarily require empirical proof of a threat. The combination of exposure and some corroborating evidence of how the species is likely affected could suffice. The mere identification of stressors that could affect a species negatively is not sufficient to compel a finding that listing is appropriate; we require evidence that these stressors are operative threats that act on the species to the point that the species meets the definition of an endangered species or a threatened species under the Act.

In making our 12-month findings, we considered and evaluated the best available scientific and commercial information.

## Eagle Lake Rainbow Trout (Oncorhynchus mykiss aquilarum)

### *Previous Federal Actions*

The Service has been petitioned three times to add the Eagle Lake rainbow trout (*Oncorhynchus mykiss aquilarum*) (ELRT) to the List of Endangered and Threatened Wildlife under the authority of the Act. On April 28, 1994, we received a petition from John F. Bosta, of Susanville, California, requesting that we list the ELRT as an endangered or threatened species, designate critical habitat, and develop a recovery plan for the species. On August 7, 1995, we published our 90-day finding in the **Federal Register** (60 FR 40149) stating that the petition did not present substantial information to indicate that listing the ELRT as an endangered or threatened species under the Act may be warranted.

On August 15, 2003, we received a second petition from Mr. John Bosta, requesting that we list the ELRT as an endangered or threatened species under the Act. On October 6, 2003, we received a similar petition from Mr. Chuck Sanford, of Loomis, California, dated September 28, 2003. Mr. Sanford's petition repeated the same information provided earlier in the Bosta 2003 petition and was therefore treated as a comment on the first petition received. In our February 24, 2004, response letter to Mr. Bosta, we explained that we had reviewed the petition and determined that an emergency listing was not warranted, and that because of other court-ordered listing and critical habitat actions and settlements, we would not be able to otherwise address the petition to list the ELRT at that time, but would complete the action when workload and funding allowed.

In a settlement agreement with WildEarth Guardians dated May 10, 2011 [*WildEarth Guardians* v. *Salazar*, No. 10–377 (EGS) MDL Docket No. 2165], we agreed to complete our 90-day finding on the 2003 petition to list the ELRT on or before September 30, 2012. On September 5, 2012, we published our 90-day finding in the **Federal Register** (77 FR 54548), in which we determined that the petition presented substantial information indicating that the ELRT may be warranted for listing as an endangered or threatened species, and initiated a status review and solicited information on the stressors potentially affecting the ELRT. Specifically, we found that the petition and information in our files indicated that the habitat in Pine Creek, a tributary to Eagle Lake and the major stream spawning habitat for ELRT, was degraded and that access to the stream was blocked by a weir used for collecting fish for hatchery purposes. We also found that the ELRT population in Pine Creek was subject to predation pressure from introduced nonnative brook trout (*Salvelinus fontinalis*).

On May 13, 2014, Western Watersheds Project (WWP) submitted a notice of intent to sue the Service for failure to complete a 12-month finding on the 2003 petition and determine the listing status of the ELRT under the Act. On September 23, 2014, WWP filed a complaint (*Western Watersheds Project* v. *Jewell et al.;* Case 2:14–CV–02205–MCE–KJN) to compel the Service to issue the 12-month finding.

On March 17, 2015, the Service entered into a stipulated settlement agreement with WWP agreeing that no later than June 30, 2016, the Service would submit to the **Federal Register** a 12-month finding as to whether listing the ELRT under the Act is warranted, not warranted, or warranted but precluded.

### *Background*

The ELRT is a subspecies of rainbow trout endemic to the highly alkaline Eagle Lake and its main tributary, Pine Creek. Its range is restricted to Eagle Lake, Pine and Bogard Spring Creeks within the Pine Creek watershed, and, on occasion, other small tributaries to Eagle Lake, such as Merrill and Papoose Creeks. Past cumulative impacts from improper land management, introduction of nonnative fishes, overharvesting, and lowering lake levels during the late 1800s and the early 1900s resulted in the degradation of habitat within the Pine Creek watershed and a sharply declining ELRT population. To ensure the persistence of the subspecies and to sustain a trophy fishery in Eagle Lake, a hatchery program for the ELRT was created by the California Department of Fish and Wildlife (CDFW) in 1950. In 1959, the Pine Creek Fish Trap and barrier weir (Trap) was constructed at the mouth of Pine Creek to assist in the collection of adult spawners for the hatchery program. The barrier weir blocked all fish passage except during high flow events; then, in 1995, the weir was modified further to block all fish passage, even in high flow events. In addition to the barrier weir, past land use practices had degraded stream conditions in the Pine Creek watershed. While the hatchery program substantially increased the ELRT population from historic lows observed in the 1930s–1940s, the blockage of natural stream spawning opportunities, in combination with the degraded watershed conditions, prevented natural lake-to-stream spawning and resulted in an increased dependence on hatchery propagation.

Stream-resident ELRT have been observed spawning in the intermittent and perennial sections of Pine Creek, which may be contributing to the natural reproductive population. There was an observation of spawning within the intermittent portions of Pine Creek and the subsequent downstream migration of fry in 2011. There were also observations of spawning within the perennial portions of Pine Creek in 2009, and fry were observed the following spring in Pine Creek. Some spawning activity has also been observed along the gravelly shores of Eagle Lake, but it is unknown if spawning was successful or if it contributed to recruitment of the population. There has been recent successful spawning of ELRT in an aquarium at the Turtle Bay Museum in Redding, California, which suggests that spawning outside of the stream habitat is possible.

### *Summary of Status Review*

At the time of our 90-day finding in 2012, we found that the petition presented substantial information that the ELRT may warrant listing due to the present or threatened destruction, modification, or curtailment of its habitat or range based on the presence of a hatchery weir on Pine Creek impeding fish passage, predation from introduced nonnative brook trout on the remnant ELRT population in the headwaters of Pine Creek, and because of the ongoing hatchery program and hatchery practices potentially causing genotypic and phenotypic genetic shift in ELRT populations. Since our 90-day finding was issued on September 5, 2012, numerous conservation efforts have been implemented or are ongoing, and these conservation efforts have reduced the level of impact on the ELRT from identified stressors.

*Stressors Impacting ELRT:* In completing our status review for the ELRT, we reviewed the best scientific and commercial data available and compiled this information in the 2016 Species Report for the Eagle Lake Rainbow Trout (*Oncorhynchus mykiss aquilarum*) (Service, 2016). For our finding, we evaluated potential stressors related to the ELRT and its habitat. The different levels of impact of each stressor or combination of stressors are defined as follows: (1) Low-level impacts are those that result in a minor loss of individuals and/or habitat currently or expected in the future; (2) moderate-level impacts are those that result in more than a minor loss, but not a widespread loss, of individuals and/or habitat currently or expected in the future; and (3) high-level impacts are those that result in a widespread loss of individuals and/or habitat currently or expected in the future.

The stressors we analyzed were grazing, roads and railroads, water impoundments, fish passage barriers, recreational fishing, predation from and competition with brook trout, disease, effects from artificial propagation, and effects from climate change. The full analysis for all of these stressors can be found in the ELRT 12-Month Petition Finding's Supporting Document at *http://www.regulations.gov* (see **ADDRESSES**, above). As discussed in greater detail in that document, we have concluded, based on the best information available at this time, that the effects from grazing, roads and railroads, water impoundments, fish passage barriers, recreational fishing, disease, and effects from artificial propagation (all of the stressors analyzed, other than predation from and competition with brook trout and climate change, which, as discussed further below, have moderate-level impacts) are currently low-level impacts to ELRT and will continue at a low level into the future. With respect to fish passage barriers, the fact that this stressor—which historically had severe, high-level impacts—currently has only low-level impacts on the ELRT reflects a significant change in conditions that has reduced the stressors on the ELRT and improved its status.

As noted above, beginning in 1959 the Pine Creek Fish Trap and barrier weir prevented any migrations between Eagle Lake and suitable spawning habitat in the upper Pine Creek watershed. However, a fishway was installed in the Trap in 2012, which now fully allows upstream spawning migration runs. A few other fish passage barriers still currently exist, higher up in the watershed upstream of the Trap, but these are only barriers under extreme low flow conditions and only have the potential to be minor impediments to habitat access by stream-resident fish in some locations. Currently, the only significant barrier to spawning migration is the lack of consistent annual flow within the lower, intermittent portions of the Pine Creek watershed. Past land use management practices, which have now been discontinued, likely exacerbated the effects of inconsistent flows by degrading habitat conditions, which in turn would have reduced the amount of suitable migration opportunities. However, this inconsistent flow barrier appears to be a natural condition of the system in which the ELRT has evolved. With the removal of the Trap as a barrier and discontinuation of harmful land use management practices that occurred in the past, the ELRT are now returned to the natural condition, including the inconsistency of adequate annual flows. As a result of this natural condition of inconsistent annual flows, there remains a potential that ELRT individuals during the spring attempting to migrate into the Pine Creek watershed to spawn may be either completely precluded from making spawning runs in any given year, or get stranded before reaching spawning habitat. There is no information to indicate these conditions will change (*e.g.*, more frequent adequate annual flows) in the future, and therefore we believe this condition will continue to result in a minor loss of both individuals and habitat. However, while remaining barriers may result in reduced habitat opportunities in some locations, and inconsistent annual flows may result in reduced spawning opportunities or stranded individuals, conservation efforts (including installation of the fishway in the Pine Creek fish trap) have significantly improved the overall condition relative to passage barriers and have greatly improved the outlook for the ELRT, since it went from no ability at all for natural spawning from Eagle Lake to significantly increased opportunities throughout the watershed.

Two of the stressors—predation from and competition with brook trout, and the potential effects from climate change—may result in moderate-level effects. The populations of nonnative brook trout that occur within the Pine Creek watershed have impeded the ability of the ELRT to establish a large stream population within the perennial portions of Pine and Bogard Spring Creeks. The large brook trout population not only competes with the ELRT for resources, but also preys on ELRT eggs and juveniles. The presence of brook trout likely precludes a robust population of stream-dwelling ELRT, both those resident now and those expected to migrate there now that passage barriers have been removed. However, there have been observations of individual ELRT and ELRT-spawning in the perennial sections of the watershed with brook trout present, demonstrating an ability to withstand some level of co-occurrence. During a 3-year electrofishing study in Bogard Spring Creek from 2007–2009, ELRT made up 3 percent of the fish caught, and brook trout made up 92 percent (Carmona-Catot et al. 2011, p. 331). Competition with and predation from nonnative brook trout will continue to be a source of loss of individuals within the Pine Creek watershed into the future, for as long as brook trout are present. However, this stressor does not rise to the level of a threat for the subspecies for several reasons: (1) Brook trout only affect a small portion of the overall ELRT population, since brook trout only occur in the perennial portions of the Pine Creek Watershed and not in the lake, where the main population of ELRT are found; (2) there is some evidence that ELRT may successfully spawn apart from the upper watershed streams; (3) ELRT are able to co-occur at low levels in streams where brook trout are present; and (4) the sustainable hatchery operations are continuing to provide robust, healthy populations of ELRT throughout the entire watershed.

The effects of climate change will result in low- to moderate-level impacts into the foreseeable future, depending on various projected climate conditions. Future climate trends and projected climate models show a range of conditions that may occur in the future. Therefore, the degree to which climate change acts on the subspecies may vary (within the low to moderate range) under each projected modeled scenario.

Climate change may change the flow regime of the Pine Creek watershed, which may in turn influence the ELRT's ability to reach spawning habitat during the typical spawning migration timeframe. Climate change models predict that winter temperatures would increase, and that winter precipitation would shift from snow to rain. Under the lower emission scenario, April snowpack would be reduced 65 to 87 percent in the 5,740-foot (1,750-meter) elevation range of Pine Creek, and under the higher emission scenario, the reduction would be from 95 to 97 percent. In either scenario, Pine Creek would be likely to flow more during the winter, due to winter rain events, but flows from snowmelt during the spring season would be lower. This has the potential to "shift" the flow regime that is suitable for migration backwards in the year toward the winter months. Such a change would be likely to affect ELRT's spawning timing into upper Pine Creek. However, historically (before climate change was a factor) runoff timing and stream flow duration have always been a limiting environmental factor in successful spawning migrations of ELRT, and observations have shown that ELRT has a large variability in spawning timing. ELRT have been observed entering streams during spawning migrations from early February through late May. The earliest spawning migration is recorded as February 9 through 12, 2015, when adult ELRT were seen entering Papoose Creek. The latest recorded spawning migration is within Pine Creek, where adults were observed spawning on May 23, 1975, and on May 22, 1995. Because of ELRT's ability historically to withstand stressful, varying conditions, and their plasticity in spawning timing, the potential change in Pine Creek's flow regime is not likely to impede their spawning migrations significantly. However, one possible consequence of an earlier spawning migration may be a reduction in the duration of the spawning season. Since spawning migrations are triggered by increasing water temperatures, earlier runoff will narrow the amount of time when there is adequate runoff at the appropriate temperature for the spawning migration. This may result in fewer individuals migrating and, ultimately, fewer individuals contributing to the reproductive population. It is important to note that this discussion about potential effects to spawning timing is in the context of a newly re-established migratory connection between Eagle Lake and Pine Creek. For many years prior, ELRT has been unable to migrate from Eagle Lake to Pine Creek at all. This effectively means that, even if there is some slight impact from a shift in the flow regime resulting from climate change, there will be a net increase in natural stream spawning, now and into the future. For a more in-depth discussion of the potential effects from climate change relative to ELRT spawning, please see the ELRT 12-Month Petition Finding's Supporting Document (see **ADDRESSES**). In addition, while we have determined that the potential effects from various climate change scenarios are not likely to rise to the level of impact on the ELRT such that it is in danger of extinction or likely to become so in the foreseeable future, based solely on projected conditions and conservation efforts that have already been implemented and/or are already ongoing and likely to continue into the future. Planned conservation (see below), including restoration of stream habitat, channel function, and hydrology, will further improve the watershed's hydrologic function and help make the watershed more resilient to the effects of drought, potentially improving flow duration and volume. Increasing the robustness of the stream population will ensure natural production will take place at times when successful spawning migration is not possible, as the stream resident population will be capable of spawning and rearing within Pine Creek, and then migrate to Eagle Lake in subsequent years when conditions allow. Finally, any improvements to the artificial spawning program as a result of genetic studies will potentially improve the genetic variability of the subspecies, making it more likely the ELRT will be able to withstand environmental changes into the future.

In addition to evaluating the effect of individual stressors, we also looked to see whether multiple stressors may act concurrently on the species, and whether any synergistic effects were likely. Multiple stressors may act on the same individuals of a species or their habitat at the same time, which can result in impacts that are not accounted for when stressors are analyzed separately. Stressors that appear minor when considered alone may have greater impacts on individuals or habitat when analyzed cumulatively with other stressors. Furthermore, some stressors may act synergistically to cause impacts that are greater than the cumulative sum of the individual stressors. Cumulative effects can be described as additive, with the effects from each individual stressor being added to the effect from each subsequent stressor, and all effects are combined in an overall impact on the species. Synergistic effects go beyond a straightforward additive approach; instead a synergistic approach describes when multiple stressors, interacting on a species or its habitat at the same time, actually increase the intensity of one or more of those stressors.

Past cumulative effects to habitat within the Pine Creek watershed reduced the quality and quantity of spawning and rearing habitat within the Pine Creek watershed, and in conjunction with overharvesting, introduction of nonnative fish, and lowering of the lake level, the population of ELRT declined. The population decline prompted the construction of the Trap and barrier weir to prevent the loss of adult individuals trying to migrate upstream and to collect adult spawners for hatchery purposes. As a result of that construction, the past cumulative impacts have been greatly reduced.

Under the current conditions, we found that it would be reasonable to anticipate cumulative effects on the ELRT from climate change altering the flow regime and the presence of brook trout. These stressors combined may result in additional individuals being lost; however, this loss would still be considered a moderate-level impact: More than a minor, but not widespread loss of individuals, particularly when the installation of the fishway is likely to significantly improve the ability of ELRT to spawn. We found no information indicating a potential for synergistic effects between any of the stressors. Moreover, any such moderate-level impacts—even when combined with low-level impacts from other stressors—would not cause the ELRT to be in danger of extinction or likely to become so in the foreseeable future.

*Conservation Efforts:* In addition to evaluating the stressors, we also considered and evaluated conservation efforts that have been implemented and shown to be effective in ameliorating the effects of stressors on the ELRT. We describe below the sources of these completed conservation efforts (including some future conservation efforts yet to be implemented, although we did not rely on those future conservation efforts for the determination in this finding). To view the complete suite of all conservation efforts, please see Tables 2 and 3 of the ELRT Species Report (Service, 2016, pp. 50–54, 57–60).

CRMP Group: In 1987, the Coordinated Resource Management Planning (CRMP) group was formed to identify goals and implement a course of action for habitat and ecosystem restoration for Pine Creek. The CRMP group includes membership by the U.S. Forest Service (USFS), the University of California Cooperative Extension for Lassen County, the California Department of Fish and Wildlife (CDFW), and local landowners and interested parties. The initial goals for restoring Pine Creek included: (1) Improve streambank stability; (2) improve vegetation cover in the watershed; (3) raise the streambed and water table in the drainage, and spread out peak flows of Pine Creek; (4) restore the natural ELRT fishery in Pine Creek; (5) improve wildlife habitat along Pine Creek; (6) reduce nutrient and sediment loading into Eagle Lake from Pine Creek; (7) maintain grazing and timber management; and (8) meet goals in a coordinated effort with all affected parties. The Service has been occasionally involved in the planning efforts of the CRMP group since 1995.

The CRMP group has completed numerous successful restoration actions since 1989 to improve habitat conditions and re-establish natural populations and spawning runs of ELRT within the Pine Creek watershed. Restoration actions have included, among other things, replacing culverts to increase fish passage and improving grazing practices. A summary of the restoration actions, both completed and planned, is shown in Table 2 of the Service's ELRT Species Report (Service 2016, pp. 49–54). As stated above, our determination in this finding only relied on those conservation efforts that have been implemented and shown effective at reducing or removing stressor impacts. 2015 ELRT Conservation Agreement and Conservation Strategy: A 2015 conservation agreement for ELRT and the associated conservation strategy were developed to expedite the implementation of conservation measures for the ELRT as a collaborative and cooperative effort among the CDFW, the USFS, and the Service. The conservation strategy was created to serve as a framework for the conservation and protection of the ELRT and to contribute to the species' persistence into the future. Conservation actions described in the conservation strategy are currently being implemented by CDFW and USFS, or are being planned for future implementation. As stated above, our determination in this finding only relied on those conservation efforts that have been implemented and shown effective at reducing or removing stressor impacts. These conservation efforts included:

—Removal of natural passage barriers;
—Modified spawning practices to increase genetic diversity; and
—Marking hatchery-raised fish to monitor the "natural" population.

*Role of CDFW Fish Hatcheries:* Since the 1950s, CDFW has been raising ELRT for fish stocking in Eagle Lake and Pine Creek. In addition to other hatcheries that raise ELRT for fish stocking throughout the nation, there are currently two CDFW fish hatcheries (Darrah Springs and Crystal Lake State Fish Hatcheries) that raise ELRT for stocking into Eagle Lake and Pine Creek. Both of these hatcheries have completed conservation efforts recommended by the CRMP group and are currently participating in conservation efforts in support of the 2015 conservation agreement and conservation strategy. The CDFW has been an active member in planning and implementing ELRT restoration actions since 1989 as part of the CRMP group. CDFW assisted in the development of the conservation strategy and is a signatory agency on the conservation agreement.

The two CDFW fish hatcheries are being operated in a manner to provide conservation benefits to the subspecies by: (1) Producing a large number of stocked ELRT annually, with no indication or reason to stop doing so in the future; (2) monitoring naturally produced fish; (3) managing for genetic diversity and disease outbreak control; (4) providing access to upstream creek reaches for spawning by installation of the fishway at the Trap; and (5) planning to remove predatory nonnative brook trout. In evaluating the conservation benefits from hatchery operations, we did not rely on the potential for brook trout removal. Instead, we focused on those actions already undertaken (removal of the Trap as a passage barrier) and operations that are already in place (propagation, genetic practices, disease control), have already provided conservation benefits, and will continue to do so into the future.

The CRMP group has completed numerous successful restoration actions to improve habitat conditions and reestablish natural populations and spawning runs of ELRT within the Pine Creek watershed since 1989. Restoration actions include, but are not limited to: Improving grazing practices, replacing culverts to increase fish passage, and attempting to remove nonnative brook trout from Bogard Spring Creek. A summary of the restoration actions is shown in Table 2 of the Services ELRT Species Report (Service 2016, pp. 45–54). Through the conservation strategy, CDFW has successfully implemented ELRT health monitoring for disease control at the hatcheries, and adjusted hatchery operations, propagation efforts, fish stocking practices, and fish passage strategies to benefit natural populations and spawning runs of ELRT in Pine Creek. Based on the successful track record of numerous parties implementing these conservation actions together, we conclude that ongoing implementation of those actions is removing or reducing identified stressors to the subspecies or its habitat.

### *Finding*

Based on our review of the best available scientific and commercial information pertaining to the five factors, we find that the stressors acting on the subspecies and its habitat, either singly or in combination, are not of sufficient imminence, intensity, or magnitude to indicate that ELRT (*Oncorhynchus mykiss aquilarum*) is in danger of extinction throughout all of its range (an endangered species), or likely to become endangered within the foreseeable future (a threatened species). Populations of ELRT are improving due to past conservation actions and ongoing efforts to re-establish and increase naturally occurring populations. Current and ongoing habitat management and restoration activities for ELRT have made substantial progress since their inception and are continuing into the future.

We also considered whether the ELRT is threatened or endangered throughout a significant portion of its range. We evaluated the current range of the ELRT to determine if there is any apparent geographic concentration of potential threats for the ELRT. The ranges for naturally occurring populations of ELRT are relatively small and limited to the watershed for where they are found, unless they are stocked by CDFW in Eagle Lake and other areas due to artificial propagation. We also examined potential stressors throughout the range of the ELRT. Because the distribution of the subspecies is generally limited to Eagle Lake and the Pine Creek watershed, and the stressors are similar and essentially uniform throughout the range, we found no portion of the range that could qualify as a significant portion of the ELRT's range and no concentration of stressors that suggests that the ELRT may be in danger of extinction, or likely to become in danger of extinction, in any portion of its range. Therefore, we find that listing the ELRT as an endangered or a threatened species throughout all of or a significant portion of its range is not warranted at this time.

This document constitutes the Service's 12-month finding on the petition to list the ELRT as an endangered or threatened species and fulfills our settlement obligation. A detailed discussion of the basis for this finding can be found in the ELRT Petition Finding's Supporting Document (see **ADDRESSES**, above).

### Ichetucknee Siltsnail (Floridobia mica)

*Previous Federal Actions*

On April 20, 2010, we received a petition from the Center for Biological Diversity (CBD), Alabama Rivers Alliance, Clinch Coalition, Dogwood Alliance, Gulf Restoration Network, Tennessee Forests Council, West Virginia Highlands Conservancy, Tierra Curry, and Noah Greenwald (referred to as the "CBD petition") requesting that the Service consider for listing as either endangered or threatened 404 species in the southeastern United States, including the Ichetucknee siltsnail, that were ranked as G1 or G2 by the organization NatureServe; as near threatened or worse by the International Union for Conservation of Nature; or as a species of concern, threatened, or endangered by the American Fisheries Society. The Service issued 90-day findings on September 27, 2011 (76 FR 59836), in response to the petition and concluded that the petition presented substantial information indicating that the listing of 374 species (including the Ichetucknee siltsnail) under the Act "may be warranted." On June 17, 2014, CBD filed a complaint against the Service to compel the Service to issue a 12-month finding as to whether the listing of the Ichetucknee siltsnail is warranted, not warranted, or warranted but precluded. The complaint was resolved on September 22, 2014, when the U.S. District Court approved a settlement agreement between the Service and CBD, including a commitment for the Service to submit a 12-month finding for the Ichetucknee siltsnail to the **Federal Register** by June 30, 2016.

*Background*

The Ichetucknee siltsnail (*Floridobia mica*) is a freshwater snail in the phylum Mollusca, order Littorinimorpha, and family Hydrobiidae and is a distinct species. This snail is small with a shell that is between 2.0 and 2.3 millimeters (0.08 to 0.09 inches) in length. The Ichetucknee siltsnail is known in only one locality; it is endemic to Coffee Springs, a small spring located within Ichetucknee Springs State Park along the west bank of the Ichetucknee River about 1.6 kilometers (1.0 mile) northeast of U.S. Highway 27 in Suwannee County, Florida. Coffee Springs is a third magnitude spring with a flow of 2.83 cubic feet per second (cfs) and a pool area between 364 square meters ($m^2$; 3,918 square feet ($ft^2$)) and 19 $m^2$ (205 $ft^2$). The spring is open and continuous with the Ichetucknee River. The siltsnail exists throughout the entire spring in varying densities, and they are found in nearly all habitat types within the spring. Little is known about the Ichetucknee siltsnail's biology and behavior, as there has not been a comprehensive study of the species. However, some of the life history of the genus Floridobia has been described. Most Floridobia snails have a lifespan of 1 to 2 years, and the sexes are dioecious (separate). Reproduction is sexual and occurs throughout the year, and females may be either oviparous (egg-laying) or ovoviviparous (live birth after eggs hatch inside the body). The females are larger than the males, and the ratio of females to males tends to be greater. Floridobia are found in greater abundance closer to spring heads, where the water temperature and flow are steady and where dissolved oxygen levels are low. Abundance decreases farther from the spring head, and population size seems to be influenced by the substrates available in the springs as well as by spring velocity, presence of macrophytes and algae mats, and flood frequency. Abundance is positively associated with the amount of available shading. Floridobia are prey to some small fishes; however, the role of predators on the population size is unknown. Floridobia graze on detritus and periphyton/biofilm. While a toxicity test has not been performed on the Ichetucknee siltsnail, it is likely it would be sensitive to contaminants, as studies on other Hydrobiidae snails have shown low tolerance to contaminants.

*Summary of Status Review*

The CBD petition identified recreation as the primary threat to the Ichetucknee siltsnail and also identified aquifer withdrawal (groundwater depletion), saltwater intrusion within karst habitats, groundwater contamination and water pollution, small population size effects, and lack of regulatory mechanisms in place to protect this snail as potential stressors to the species. The Service examined these potential stressors indicated by CBD, as well as the potential for contaminant spills, development and land use, nonnative species, and the effects of climate change as potential stressors to this species. After examining these potential stressors under a five-factor analysis, we found that they are not actual stressors to the Ichetucknee siltsnail at this time.

CBD indicated that recreation was the biggest threat, as recreational activities on the adjacent Ichetucknee River will cause habitat degradation and destruction. However, the Ichetucknee State Park (Park) has fenced off Coffee Springs from the Ichetucknee River to prevent any such disturbance to snail habitat. The Park also is implementing a management plan that includes monitoring and protecting this species. Under this plan, Coffee Springs is periodically monitored and inspected to ensure that no damage to the habitat occurs and that there have been no changes to the habitat of the siltsnail or the surrounding areas. Protective fencing and signage in the area of Coffee Springs is also being maintained.

Groundwater depletion was identified by CBD as a threat; however, it is not expected to affect the population of siltsnails despite a flow deficit on the Ichetucknee River. In addition, minimum flows and levels (MFLs) for the Lower Santa Fe and Ichetucknee Rivers and priority springs areas, including Coffee Springs, have been established by the Suwannee River Water Management District (SRWMD) and an MFL recovery or prevention strategy has been put into place that is expected to raise the flows and levels so that they will not fall below the established minimums and, therefore, we do not anticipate future negative effects on the species that would rise to the population level. Although identified by CBD, there is no evidence of saltwater intrusion occurring in Coffee Springs or on the Ichetucknee River that would affect the Ichetucknee siltsnail. There is a concern for groundwater contamination and water pollution through increasing nitrate levels in the Ichetucknee spring system based on samples taken within the springs since the 1940s. However, these changes have been very gradual, and any future changes are also expected to occur very slowly. Currently, exposure to increased nitrate levels does not appear to be having a negative effect on the Ichetucknee siltsnail. Additionally, Florida Department of Environmental Protection (FDEP) has been implementing a basin management action plan (BMAP) since February of 2012, for the management of total maximum daily load (TMDL) for nitrates in the water systems of the Ichetucknee River and Santa Fe River basins, which includes the Ichetucknee River and spring system, and water quality is expected to improve over time. There is a buffer of State park land ranging from 500 to 1,700 m (5,381.96 to 18,298.65 ft) wide surrounding both sides of the river at and upstream of Coffee Springs. Therefore, contaminant spills are unlikely to occur on the protected State park property and are therefore not considered a likely stressor to the Ichetucknee siltsnail or its habitat. Development and land use are also not stressors, because Coffee Springs is located entirely within a protected zone in the State park land where development and other uses are excluded.

While nonnative species can sometimes result in the loss and decline of a native species, and two nonnative species were identified in the Ichetucknee River, neither of the nonnative species was identified within Coffee Springs, nor were they shown to be colonizing the adjacent Ichetucknee River in high numbers. The best available information indicates that nonnative species are not affecting the Ichetucknee siltsnail at the species level now, nor do we have indication that they will in the future. While climate change has the potential to affect habitat used by this species, much uncertainty remains regarding which habitat attributes may be affected, and the timing, magnitude, and rate of change. Based on this variability and uncertainty of the effects of climate change on the Ichetucknee siltsnail within its range, we cannot reasonably determine that the effects of climate change are likely to be a threat to the species now or in the foreseeable future. Small population size effects are one of the reasons the Ichetucknee siltsnail was identified under the CBD petition as a species at risk for extinction. However, the known distribution of the species has always been limited and small, and the population within the spring appears to be healthy and abundant, has persisted in this location, and does not appear to be negatively affected at the population level by the potential stressors identified in the CBD petition or by the potential stressors we identified. In addition, measures are in place to protect or monitor both the habitat and the population. The CBD petition did not identify overutilization, disease, or predation as threats to the species, and the best available scientific and commercial information does not indicate that these stressors are negatively affecting the Ichetucknee siltsnail, or that they are likely to do so in the foreseeable future.

The existing regulatory mechanisms we examined are reducing, and likely to continue reducing, the stressors. There are a number of laws that set standards for clean water generally such as the Clean Water Act of 1972 (CWA; 33 U.S.C. 1251 *et seq.*) and the Safe Drinking Water Act of 1974 (SDWA; 42 U.S.C. 300f *et seq.*). The CWA and SDWA are in place to protect water quality such that it will be supportive of aquatic wildlife. State regulatory mechanisms in place include protections of the Ichetucknee River and springs under designation as class III waters and as Outstanding Florida Waters. Both of these designations ensure protection of water quality in the groundwater, springs, and surface waters of the Ichetucknee River and spring system and are therefore also protective of the habitat used by the Ichetucknee siltsnail. The SRWMD has included consideration of the Ichetucknee siltsnail within its established MFLs, and the Park has included the management and protection of snail habitat within its park management plan. FDEP has enacted a BMAP for the management of TMDLs for nitrates in the water systems of the Ichetucknee River and Santa Fe River basins. While this is not specifically designed to alleviate stressors on the Ichetucknee siltsnail, its purpose is to ensure that TMDLs within the Ichetucknee River and spring system are monitored and managed.

In making our 12-month finding on the petition, we consider and evaluate the best available scientific and commercial information. This evaluation includes information from all sources, including State, Federal, tribal, academic, and private entities and the public. After evaluating the best available scientific and commercial information on all potential stressors acting individually or in combination, we found no information to indicate that the combined effects are causing a population-level decline or currently degrading habitat of the species or that they are likely to do so in the foreseeable future.

### *Finding*

We examined potential threats to the Ichetucknee siltsnail from development, recreation, groundwater withdrawal, nonnative species, environmental contaminants, overutilization, disease or predation, the inadequacy of existing regulatory mechanisms, small population size, and the effects of climate change. The population is now the largest it has ever been and appears to have been stable since 1968. After evaluating the best available scientific and commercial information, we found no evidence that these potential stressors are acting on, or having a negative impact on, the Ichetucknee siltsnail. In addition, the State continues to manage the site to protect both the habitat and the species.

Because the Ichetucknee siltsnail is only known from one location (Coffee Springs), there is no portion of the species' range where potential threats are significantly concentrated or substantially greater than in other portions of its range. Therefore, we find that factors affecting the Ichetucknee siltsnail are essentially uniform throughout its range, indicating no portion of the range is likely to be in danger of extinction or likely to become so. Therefore, no portion warrants further consideration to determine whether the species may be endangered or threatened in a significant portion of its range.

Based on our review of the best available scientific and commercial information pertaining to the five factors, we find that the stressors, even when considered cumulatively, are not of sufficient imminence, intensity, or magnitude to indicate that the Ichetucknee siltsnail is in danger of extinction (endangered), or likely to become endangered within the foreseeable future (threatened), throughout all of its range or any significant portion of its range. Therefore, we find that listing the Ichetucknee siltsnail as an endangered or threatened species under the Act is not warranted at this time.

This document constitutes the Service's 12-month finding on the April 20, 2010, petition to list the Ichetucknee siltsnail as an endangered or threatened species and fulfills our settlement obligation. A detailed discussion of the basis for this finding can be found in the Ichetucknee Siltsnail Petition Finding's Supporting Document (see **ADDRESSES**, above).

## New Information

We request that you submit any new information concerning the status of, or stressors to, the Eagle Lake rainbow trout or the Ichetucknee siltsnail to the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**, whenever it becomes available. New information will help us monitor these species and encourage their conservation. If an emergency situation develops for either of these species, we will act to provide immediate protection.

## References Cited

Lists of the references cited in the petition findings are available on the Internet at *http://www.regulations.gov* and upon request from the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT.**

## Authors

The primary authors of this document are the staff members of the Unified Listing Team, Ecological Services Program.

## Authority

The authority for this section is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: June 24, 2016.

**Stephen Guertin,**

*Acting Director, U.S. Fish and Wildlife Service.*

[FR Doc. 2016–15935 Filed 7–5–16; 8:45 am]

**BILLING CODE 4333–15–P**

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Parts 223 and 224

**[Docket No. 160524463–6544–01]**

**RIN 0648–XE657**

# Endangered and Threatened Species; Removal of the Puget Sound/Georgia Basin Distinct Population Segment of Canary Rockfish From the Federal List of Threatened and Endangered Species, and Removal of Designated Critical Habitat, and Update and Amend the Listing Descriptions for the Yelloweye Rockfish DPS and Bocaccio DPS

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** We, NMFS, are issuing a proposed rule to remove the Puget Sound/Georgia Basin canary rockfish (*Sebastes pinniger*) Distinct Population Segment (DPS) from the Federal List of Threatened and Endangered Species and remove its critical habitat designation as recommended in the recent five-year review under the Endangered Species Act (ESA). We propose these actions based on newly obtained genetic information that demonstrates that the Puget Sound/Georgia Basin canary rockfish population does not meet the DPS criteria and therefore does not qualify for listing under the ESA.

We also propose to update and amend the listing description for the Puget Sound/Georgia Basin yelloweye rockfish (*S. ruberrimus*) DPS based on a geographic description to include fish within specified boundaries. Further, although the current listing description is not based on boundaries, with this proposal we are also correcting a descriptive boundary for the DPS depicted on maps to include an area in the northern Johnstone Strait and Queen Charlotte Channel in waters of Canada consistent with newly obtained genetic information on yelloweye rockfish population grouping.

We also propose to update and amend the listing description for the bocaccio DPS based on a geographic description and to include fish within specified boundaries.

**DATES:** Information and comments on the subject action must be received by September 6, 2016.

**ADDRESSES:** Reference materials supporting this rulemaking can be obtained via the Internet at: *http://www.westcoast.fisheries.noaa.gov/* or by submitting a request to Dan Tonnes, Protected Resources Division, West Coast Region, National Marine Fisheries Service, 7600 Sand Point Way NE., Seattle WA, 98115.

You may submit comments, identified by the code: NOAA–NMFS–2016–0070 by either of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0070.* Click the "Comment Now" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Send comments to Chris Yates, Assistant Regional Administrator, Protected Resources Division, NMFS, West Coast Regional Office, Attn: Dan Tonnes, 7600 Sand Point Way NE., Seattle, WA 98115.

*Instructions:* You must submit comments by one of the above methods to ensure that we receive, document, and consider them. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *http://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

**FOR FURTHER INFORMATION CONTACT:** Dan Tonnes, NMFS, West Coast Region, Protected Resources Division, 206–526–4643; or Chelsey Young, NMFS, Office of Protected Resources, 301–427–8403.

**SUPPLEMENTARY INFORMATION:**

## Background

We have been petitioned several times to list various "DPSs" of rockfish in the Puget Sound region. In response to a petition in 1999, we conducted a status review of brown rockfish, copper rockfish, and quillback rockfish (Stout *et al.* 2001). During this status review, the Biological Review Team (BRT) that we established determined that the available genetic information for each species demonstrated population structure and supported a determination of discreteness as defined by the joint NMFS and U.S. Fish and Wildlife Service (USFWS) 1996 DPS Policy (61 FR 4722; February 7, 1996). Based on this examination, the BRT identified a DPS for each of the three rockfish species in Puget Sound proper that can be considered a species under the ESA, and concluded that none of the identified DPSs were at risk of extinction (Stout *et al.* 2001).

On April 9, 2007, we received a petition from Mr. Sam Wright (Olympia, Washington) to list DPSs of five rockfish species (yelloweye, canary, bocaccio, greenstriped and redstripe) in Puget Sound, as endangered or threatened species under the ESA and to designate critical habitat. We found that this petition did not present substantial scientific or commercial information to suggest that the petitioned actions may be warranted (72 FR 56986; October 5, 2007). On October 29, 2007, we received a letter from Mr. Wright presenting information that was not included in the April 2007 petition, and requesting reconsideration of the decision not to initiate a review of the species' status. We considered the supplemental information as a new petition and concluded that there was enough information in this new petition to warrant conducting status reviews of these five rockfish species. The status review was initiated on March 17, 2008 (73 FR 14195) and completed in 2010 (Drake *et al.* 2010).

In the 2010 status review, the BRT used the best scientific and commercial data available at that time, including environmental and ecological features of the Puget Sound/Georgia Basin, but noted that the limited genetic and demographic data for the five petitioned rockfish species populations created some uncertainty in the DPS determinations (Drake *et al.* 2010). The BRT assessed genetic data from the Strait of Georgia (inside waters of eastern Vancouver Island) for yelloweye rockfish (Yamanaka *et al.* 2006), that indicated a distinct genetic cluster that differed consistently from coastal samples of yelloweye rockfish, but also observed that genetic data from Puget Sound were not available for this species. The BRT also noted there was genetic information for canary rockfish (Wishard *et al.* 1980) and bocaccio (Matala *et al.* 2004, Field *et al.* 2009) in coastal waters, but no genetic data for either species from inland Puget Sound waters. The BRT found that in spite of these data limitations there was other evidence to conclude that each noted population of rockfish within inland waters of the Puget Sound/Georgia Basin was discrete from its coastal counterpart. Specifically, the BRT noted similar life histories of rockfish and based their determinations, in part, on the status review of brown rockfish, copper rockfish, and quillback rockfish (Stout *et al.* 2001) and the genetic information for those species that supported separate DPSs for inland compared to coastal populations (Drake *et al.* 2010). Thus, based on information related to rockfish life history, genetic variation among populations, and the environmental and ecological features of Puget Sound and the Georgia Basin, the BRT identified Puget Sound/Georgia Basin DPSs for yelloweye rockfish, canary rockfish, and bocaccio, and a Puget Sound proper DPS for greenstriped rockfish and redstripe rockfish (Drake *et al.* 2010).

Informed by the BRT recommendations and our interpretation of best available scientific and commercial data, on April 28, 2010, we listed the Puget Sound/Georgia Basin DPSs of yelloweye rockfish and canary rockfish as threatened under the ESA, and the Puget Sound/Georgia Basin DPS of bocaccio as endangered (75 FR 22276). The final critical habitat rule for the listed DPSs of rockfishes was published in the **Federal Register** on November 1, 2014 (79 FR 68041). We determined that greenstriped rockfish (*S. elongatus*) and redstripe rockfish (*S. proriger*) within Puget Sound proper each qualified as a DPS, but these DPSs were not at risk of extinction throughout all or a significant portion of their ranges (Drake *et al.* 2010).

In 2013, we appointed a recovery team and initiated recovery planning for the listed rockfish species. Through the process of recovery planning, priority research and recovery actions emerged. One such action was to seek specific genetic data for each of these rockfish species to better evaluate and determine whether differences exist in the genetic structure of the listed species' populations between inland basins where the DPSs occur and the outer coast.

In 2014 and 2015, we partnered with the Washington Department of Fish and Wildlife, several local fishing guides, and Puget Sound Anglers to collect samples and compare the genetic structure of the species' populations between the different basins of the Puget Sound/Georgia Basin DPSs area and the outer coast.

In 2015, we announced a five-year review (80 FR 6695; February 6, 2015) for the three rockfish DPSs. The five-year review was completed on May 5, 2016 (NMFS 2016), and is available at: *http://www.westcoast.fisheries.noaa.gov/publications/protected_species/other/rockfish/5.5.2016_5yr_review_report_rockfish.pdf.* To complete the review, we collected, evaluated, and incorporated all information on the species that has become available since April 2010, the date of the listing, including the 2014 final critical habitat designation and the newly obtained genetic information. This newly obtained genetic information and the five-year review inform the conclusions in this proposed rule.

## Policies for Delineating and Listing Species Under the ESA

Under the ESA, the term "species" means a species, a subspecies, or a DPS of a vertebrate species (16 U.S.C. 1532(16)). A joint NMFS–USFWS policy clarifies the Services' interpretation of the phrase "Distinct Population Segment," or DPS (61 FR 4722; February 7, 1996). The DPS Policy requires the consideration of two elements when evaluating whether a vertebrate population segment qualifies as a DPS under the ESA: (1) Discreteness of the population segment in relation to the remainder of the species/taxon; and, if discrete, (2) the significance of the population segment to the species/taxon to which it belongs. Thus, under the DPS policy a population segment is considered a DPS if it is both discrete from other populations within its taxon and significant to its taxon.

A population may be considered discrete if it satisfies either one of the following conditions: (1) It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors; or (2) it is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the ESA (61 FR 4722; February 7, 1996). According to the policy, quantitative measures of genetic or morphological discontinuity can be used to provide evidence for item (1) below.

A population may be considered significant if it satisfies any one of the following conditions: (1) Persistence of the discrete segment in an ecological setting unusual or unique for the taxon; (2) evidence that loss of the discrete segment would result in a significant gap in the range of the taxon; (3) evidence that the discrete segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historical range; or 4) evidence that the discrete segment differs markedly from other populations of the species in its genetic characteristics.

The ESA gives us clear authority to make listing determinations and to revise the Federal list of endangered and threatened species to reflect these determinations. Section 4(a)(1) of the ESA authorizes us to determine by regulation whether "any species," which is defined to include species, subspecies, and DPSs, is an endangered species or a threatened species based on certain factors. Review of a species' status may be commenced at any time, either on the Services' own initiative—through a status review or in connection with a five-year review under Section 4(c)(2)—or in response to a petition. Because a DPS is not a scientifically recognized entity, but rather one created under the language of the ESA and effectuated through our DPS Policy (61 FR 4722; February 7, 1996), we have some discretion to determine whether populations of a species should be identified as DPSs and, based upon their range and propensity for movement, what boundaries should be recognized for a DPS. Section 4(c)(1) of the ESA gives us authority to update the Federal list of threatened and endangered species to reflect these determinations. This can include revising the list to remove a species or reclassify the listed entity.

Under sections 4(c)(1) and 4(a)(1) of the ESA, the Secretary shall undertake a five-year review of a listed species and consider, among other things, whether a species' listing status should be continued. Pursuant to implementing regulations at 50 CFR 424.11(d), a species shall be removed from the list if the Secretary of Commerce determines, based on the best scientific and commercial data available after conducting a review of the species' status, that the species is no longer threatened or endangered because of one or a combination of the section 4(a)(1) factors. A species may be delisted only if such data substantiate that it is neither endangered nor threatened for one or more of the following reasons:

(1) Extinction. Unless all individuals of the listed species had been previously identified and located, and were later found to be extirpated from their previous range, a sufficient period of time must be allowed before delisting to indicate clearly that the species is extinct.

(2) Recovery. The principal goal of the Services is to return listed species to a point at which protection under the ESA is no longer required. A species may be delisted on the basis of recovery only if the best scientific and commercial data available indicate that it is no longer endangered or threatened.

(3) Original data for classification in error. Subsequent investigations may show that the best scientific or commercial data available when the species was listed, or the interpretation of such data, were in error (50 CFR 424.11(d)).

## DPS and Status Determinations

### *Genetics Data Collection and Analysis Methods*

Analysis of the geographical distribution of genetic variation is a powerful method of identifying discrete populations (Drake *et al.* 2010); thus, genetic analysis provides useful information to address the uncertainties associated with the limited information that informed our initial discreteness determinations for yelloweye rockfish, canary rockfish and bocaccio.

To address the need for specific genetic data from yelloweye rockfish, canary rockfish and bocaccio within the inland Puget Sound/Georgia Basin area to compare to genetic data from rockfish in coastal areas as defined during recovery planning, we collected biological samples for genetic analysis several ways. Over the course of 74 fishing trips, biological samples were gathered from listed rockfishes using hook-and-line recreational fishing methods in Puget Sound and the Strait of Juan de Fuca. Additional samples were gathered from archived sources from Fisheries and Oceans Canada, the NMFS Southwest Fisheries Science Center's Fisheries Resource Division, and the NMFS Northwest Fisheries Science Center's West Coast groundfish bottom trawl survey. Samples collected from these sources were used to examine the population structure for each species. Population structure was examined using three methods: principal components analysis, calculation of $F_{ST}$ (fixation index; measure of population differentiation) among geographic groups, and a population genetics based model clustering analysis (termed STRUCTURE) (NMFS 2016).

NMFS' Puget Sound/Georgia Basin rockfish BRT reviewed the results from the new genetic information. Their recommendations (Ford 2015) informed and were further evaluated during the five-year review. The results are summarized below.

### *Yelloweye Rockfish Findings*

Several different analytical methods indicated significant genetic differentiation between the inland and coastal samples of yelloweye rockfish at a level consistent with the limited genetic data for this species (Yamanaka *et al.* 2006) that were available at the time of the 2010 status review. The BRT concluded that these new data represent the best available science and commercial data and are consistent with and confirm the existence of an inland population of Puget Sound/Georgia Basin yelloweye rockfish that is discrete from coastal yelloweye rockfish (Ford 2015). In addition, yelloweye rockfish from Hood Canal were genetically differentiated from other Puget Sound/Georgia Basin fish, indicating a previously unknown degree of population differentiation within the DPS.

The BRT also found that new genetic information from Canada demonstrates that yelloweye rockfish occurring in the northern Johnstone Strait and Queen Charlotte Channel clustered genetically with yelloweye rockfish occurring in the northern Strait of Georgia, the San Juan Islands, and Puget Sound. This is consistent with additional genetic analysis identifying a population of yelloweye rockfish inside the waters of eastern Vancouver Island (Yamanaka *et. al.* 2006, COSEWIC 2008, Yamanaka *et al.* 2012, Seigle *et al.* 2013). Based on this information and the five-year review, this proposed rule would correct the previous description of the northern boundary of the threatened Puget Sound/Georgia Basin yelloweye rockfish (*S. ruberrimus*) DPS to include this area. This proposed rule would also update and amend the description of the DPS as fish residing within certain boundaries (including this geographic area farther north in the Strait of Georgia waters in Canada). We propose this change because this description better aligns with yelloweye rockfish life-history and their sedentary behavior as adults, rather than the current description of fish originating from the Puget Sound/Georgia Basin.

### *Canary Rockfish Findings*

These same analytical methods were used to analyze population structure in canary rockfish. These current analyses indicate a lack of genetic differentiation of canary rockfish between coastal and inland Puget Sound/Georgia Basin samples. $F_{ST}$ values, a metric of population differentiation, among groups were not significantly different from zero among geographic regions, and STRUCTURE analysis did not provide evidence supporting population structure in the data. None of these analyses provided any evidence of genetic differentiation between canary rockfish along the coast from the canary rockfish within the boundaries of the Puget Sound/Georgia Basin DPS (NMFS 2016).

The BRT noted that the very large number of loci provided considerable power to detect differentiation among sample groups and concluded that the lack of such differentiation indicated that it is unlikely that the inland Puget Sound/Georgia Basin samples are discrete from coastal areas (Ford 2015). In the context of this newly obtained genetic information, the BRT considered whether other factors that supported the original discreteness determination, such as oceanography and ecological differences among locations, continue to support a finding of discreteness for this population. In considering this newly obtained genetic data in the context of the other evidence, the BRT found that their original interpretation of the scientific data informing discreteness is no longer supported. Rather, they concluded that the lack of genetic differentiation indicates sufficient dispersal to render a discreteness determination based on environmental factors implausible. The BRT found that current genetic data evaluated and interpreted in the context of all available scientific information now provides strong evidence that canary rockfish of the Puget Sound/Georgia Basin are not discrete from coastal area canary rockfish. Based on the BRT findings, the five-year review, and best available science and commercial information, and in accordance with the DPS policy, we have determined that the canary rockfish of the Puget Sound/

Georgia Basin do not meet the criteria to be considered a DPS. The new genetic data reveal that canary rockfish of the Puget Sound/Georgia Basin are part of the larger population occupying the Pacific Coast. Canary rockfish of the Pacific Coast was declared overfished in 2000 and a rebuilding plan under the Magnuson-Stevens Fishery Conservation and Management Act was put in place in 2001. NMFS determined the stock to be "rebuilt" in 2015 (Thorson and Wetzel 2015, NMFS 2016).

Based on the discussion above and the recommendation of the five-year review, we are proposing to remove Puget Sound/Georgia Basin canary rockfish from the Federal List of Threatened and Endangered Species because the new genetic data evaluated and interpreted in the context of all best available science indicate they are not a discrete population. Under section 4(c)(1) of the ESA and the implementing regulations at 50 CFR 424.11(d)(3), we may propose to delist canary rockfish if, among other things, subsequent investigation demonstrates that our interpretation of best scientific or commercial information was in error. After considering this newly obtained genetic data in the context of the other evidence supporting discreteness, we determined that our original interpretation of discreteness for Puget Sound/Georgia Basin canary rockfish is no longer supported and was in error. Based on this reasoning, there is no need for a post-delisting monitoring plan.

### *Bocaccio Findings*

Bocaccio are rare within the DPS area and we were able to obtain only a few samples of them in the genetic study. Because of their rarity, the genetic analysis for bocaccio included only two samples from within the DPS area, and this is not sufficient information to change our prior status review determination that Puget Sound/Georgia Basin bocaccio are discrete from coastal fish (Ford, 2015).

The BRT noted that bocaccio have a propensity for greater adult movement than more benthic rockfish species, similar to the case for canary rockfish. The BRT considered that the lack of genetic differentiation between coastal and Puget Sound/Georgia Basin canary rockfish might suggest a similar lack of genetic differentiation for bocaccio because of similarities in the life history of the two species. However, the BRT concluded that the new information was not sufficient to change the conclusions of the previous BRT documented in Drake *et al.* (2010). This is consistent with the five-year review recommendation (NMFS 2016) and is based upon best available scientific data and commercial information.

Similar to yelloweye rockfish, we propose to update and amend the listing description of the bocaccio DPS to describe boundaries to include fish residing within the Puget Sound/Georgia Basin rather than fish originating from the Puget Sound/Georgia Basin.

### Effects of the New Determinations

Based on the new information and the BRT's determination, we propose that Puget Sound/Georgia Basin canary rockfish be removed from the Federal List of Threatened and Endangered Species. The Puget Sound/Georgia Basin yelloweye rockfish DPS shall remain threatened under the ESA, and the Puget Sound/Georgia Basin bocaccio DPS shall remain endangered.

We also propose to remove designated critical habitat for canary rockfish. The critical habitat designation for the Puget Sound/Georgia Basin yelloweye rockfish and bocaccio DPSs will remain in place. The area removed as designated critical habitat for canary rockfish will continue to be designated critical habitat for bocaccio and, thus, there will be no change to the spatial area that was originally designated. Maps of critical habitat can be found on our Web site at *http://www.westcoast.fisheries.noaa.gov* and in the final critical habitat rule (79 FR 68041; November 13, 2014).

Additionally, we propose to update and amend the listing description of the yelloweye rockfish DPS to define geographical boundaries including an area farther north of the Johnstone Strait in Canada (Figure 1). This boundary would not have an effect on critical habitat, because we do not designate critical habitat outside U.S. territory.

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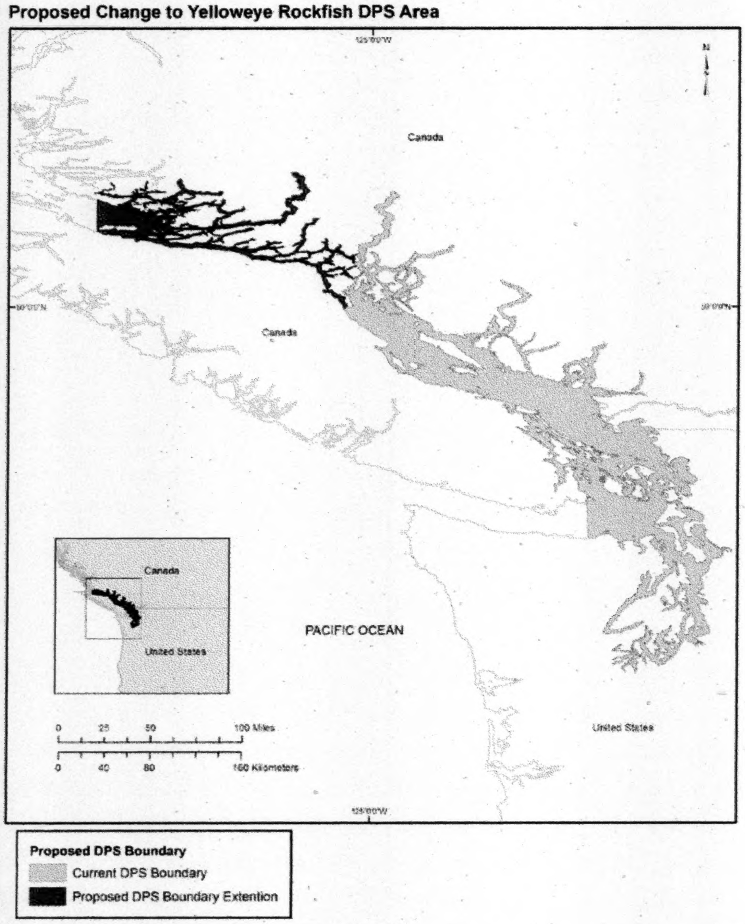
Figure 1. Updated Yelloweye Rockfish Dps Area, Which Extends Farther North Into Canada.



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If the Puget Sound/Georgia Basin canary rockfish DPS is delisted, then the requirements under section 7 of the ESA would no longer apply. Federal agencies would be relieved of the need to consult with us on their actions that may affect Puget Sound/Georgia Basin canary rockfish and their designated critical habitat and to insure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of canary rockfish or adversely modify their critical habitat. ESA section 7 consultation requirements will remain in place for the Puget Sound/Georgia Basin yelloweye rockfish and bocaccio DPSs. Recovery planning efforts will continue for these listed DPSs as well.

## References Cited

The complete citations for the references used in this document can be obtained by contacting NMFS (See **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT**) or on our Web page at: *http://www.westcoast.fisheries.noaa.gov.*

## Information Quality Act and Peer Review

In December 2004, OMB issued a Final Information Quality Bulletin for Peer Review pursuant to the Information Quality Act. The Bulletin was published in the **Federal Register** on January 14, 2005 (70 FR 2664). The Bulletin established minimum peer review standards, a transparent process for public disclosure of peer review planning, and opportunities for public participation with regard to certain types of information disseminated by the Federal Government. Peer review under the OMB Peer Review Bulletin ensures that our listing determinations are based on the best available scientific and commercial information. Prior to a final rule, and during the public comment period, NMFS will solicit the expert opinions of three qualified specialists selected from the academic and scientific community, Federal and state agencies, or the private sector to review our five-year review and underlying science supporting this action, to ensure the best biological and commercial information is being used in the decision-making process.

## Classification

### *National Environmental Policy Act (NEPA)*

The 1982 amendments to the ESA, in section 4(b)(1)(A), restrict the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation* v. *Andrus,* 657 F. 2d 829 (6th Cir. 1981), we have concluded that NEPA does not apply to ESA listing actions. (See NOAA Administrative Order 216–6.)

### *Executive Order 12866, Regulatory Flexibility Act, and Paperwork Reduction Act*

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered when assessing the status of a species. Therefore, the economic analysis requirements of the Regulatory Flexibility Act are not applicable to the listing process. In addition, this proposed rule is exempt from review under Executive Order 12866. This proposed rule does not contain a collection of information requirement for the purposes of the Paperwork Reduction Act.

### *Executive Order 13122, Federalism*

In accordance with E.O. 13132, we determined that this proposed rule does not have significant federalism effects and that a federalism assessment is not required. In keeping with the intent of the Administration and Congress to provide continuing and meaningful dialogue on issues of mutual state and Federal interest, this proposed rule will be shared with the relevant state agencies in Washington state.

## List of Subjects

### *50 CFR Part 223*

Endangered and threatened species, Exports, Imports, Transportation.

### *50 CFR Part 224*

Endangered and threatened species.

Dated: June 23, 2016.

**Samuel D. Rauch, III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR parts 223 and 224 are proposed to be amended as follows:

## PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for part 223 continues to read as follows:

**Authority:** 16 U.S.C. 1531–1543; subpart B, § 223.201–202 also issued under 16 U.S.C. 1361 *et seq.;* 16 U.S.C. 5503(d) for § 223.206(d)(9).

■ 2. In § 223.102, in the table in paragraph (e), under the subheading "Fishes", remove the entry for "Rockfish, canary (Puget Sound/Georgia Basin DPS)"; and revise the table entries for "Rockfish, yelloweye (Puget Sound/Georgia Basin DPS)", to read as follows:

### § 223.102 Enumeration of threatened marine and anadromous species.

* * * * *

(e) * * *

| Species[1] | | | Citation(s) for listing determination(s) | Critical habitat | ESA rules |
|---|---|---|---|---|---|
| Common name | Scientific name | Description of listed entity | | | |
| * | * | * * | * | * | * |
| FISHES | | | | | |
| * | * | * * | * | * | * |
| Rockfish, yelloweye (Puget Sound/ Georgia Basin DPS). | *Sebastes ruberrimus.* | Yelloweye rockfish residing within the Puget Sound/Georgia Basin, inclusive of the Queen Charlotte Channel to Malcom Island, in a straight line between the western shores of Numas and Malcom Islands—N. 50 50′46″, W. 127 5′55″ and N. 50 36′49″, W. 127 10′17″.<br>The Western Boundary of the U.S. side in the Strait of Juan de Fuca is N. 48 7′16″, W. 123 17′15″ in a straight line to the Canadian side at N. 48 24′40″, 123 17′38″. | 75 FR 22276, Apr 28, 2010. | 226.224 | NA |
| * | * | * * | * | * | * |

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[1] Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

## PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

■ 3. The authority citation for part 224 continues to read as follows:

**Authority:** 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq.*

■ 4. In § 224.101, paragraph (h), under the subheading "Fishes", revise the table entry for "Bocaccio (Puget Sound/Georgia Basin DPS)" to read as follows:

### § 224.101 Enumeration of endangered marine and anadromous species.

* * * * *

(h) * * *

| Species[1] | | | Citation(s) for listing determination(s) | Critical habitat | ESA rules |
|---|---|---|---|---|---|
| Common name | Scientific name | Description of listed entity | | | |
| * | * | * | * | * | * |
| FISHES | | | | | |
| Bocaccio (Puget Sound/Georgia Basin DPS). | *Sebastes paucispinis.* | Bocaccio residing within the Puget Sound/Georgia Basin to the Northern Boundary of the Northern Strait of Georgia along the southern contours of Quadra Island, Maurelle Island and Sonora Island, all of Bute Inlet.<br>The Western Boundary of the U.S. side in the Strait of Juan de Fuca is N. 48 7′16″, W. 123 17′15″ in a straight line to the Canadian side at N. 48 24′40″, 123 17′38″. | 75 FR 22276, Apr 28, 2010. | 226.224 | NA |
| * | * | * | * | * | * |

[1] Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

[FR Doc. 2016–15923 Filed 7–5–16; 8:45 am]

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# Notices

**Federal Register**
Vol. 81, No. 129
Wednesday, July 6, 2016

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

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## AGENCY FOR INTERNATIONAL DEVELOPMENT

### Notice of July 13, 2016 Advisory Committee on Voluntary Foreign Aid Meeting

**AGENCY:** United States Agency for International Development.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA).

Date: Wednesday, July 13, 2016.
Time: 2:00–4:00 p.m.
Location: Horizon Ballroom, The Ronald Reagan Building, 1300 Pennsylvania Ave. NW., Washington, DC 20004.

### Purpose

The Advisory Committee on Voluntary Foreign Aid (ACVFA) brings together USAID and private voluntary organization officials, representatives from universities, international nongovernment organizations, U.S. businesses, and government, multilateral, and private organizations to foster understanding, communication, and cooperation in the area of foreign aid.

### Agenda

USAID Administrator Gayle Smith will make opening remarks, followed by panel discussions among ACVFA members and USAID leadership on Ending Preventable Child & Maternal Deaths. The full meeting agenda will be forthcoming on the ACVFA Web site at *http://www.usaid.gov/who-we-are/organization/advisory-committee.*

### Stakeholders

The meeting is free and open to the public. Registration information will be forthcoming on the ACVFA Web site at *http://www.usaid.gov/who-we-are/organization/advisory-committee.*

**FOR FURTHER INFORMATION CONTACT:** Jayne Thomisee, *acvfa@usaid.gov.*

Dated: June 29, 2016.

**Jayne Thomisee,**

*Executive Director & Policy Advisor, U.S. Agency for International Development.*

[FR Doc. 2016–15954 Filed 7–5–16; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Re-Establishment of the Council for Native American Farming and Ranching

**AGENCY:** Office of the Secretary, USDA.

**ACTION:** Notice and call for nominations.

**SUMMARY:** The Department of Agriculture (USDA) is announcing the re-establishment of the advisory Council for Native American Farming and Ranching (Council). The purpose of this advisory council is to provide recommendations to the Secretary on how to eliminate barriers to Native American participation in USDA programs. The Council will discuss issues related to the participation of Native American farmers and ranchers in USDA programs and transmit recommendations concerning any changes to regulations or internal guidance or other measures. The Council is necessary and in the public interest. The USDA is seeking nominations for individuals to be considered Council members. Candidates who wish to be considered for membership on the Council for Native American Farmers and Ranchers should submit an AD–755 application form and resume to the Secretary of Agriculture. Cover letters should be addressed to the Secretary of Agriculture. The application form can be found at: *http://www.usda.gov/documents/OCIO_AD_755_Master_2012.pdf.*

**DATES:** Submit nominations on or before August 22, 2016.

**ADDRESSES:** All nomination materials should be mailed in a single, complete package and postmarked by [Insert date 45 days after the date of publication of this **Federal Register** notice]. All nominations for membership should be sent to: Thomas Vilsack, Secretary, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC, 20250, Attention: Council on Native American Farmers and Ranchers. Send comments to the Office of Tribal Relations, 500A Whitten Building, 1400 Independence Avenue SW., Washington, DC 20250.

**FOR FURTHER INFORMATION CONTACT:** Leslie Wheelock, Director, Office of Tribal Relations. Email your questions to *tribal.relations@osec.usda.gov* at or call 202–205–2249.

**SUPPLEMENTARY INFORMATION:** In accordance with the provisions of the Federal Advisory Council Act (FACA) as amended (5 U.S.C. App. 2) and with the concurrence of the General Services Administration, the Department of Agriculture (USDA) is announcing the re-establishment of the advisory Council for Native American Farmers and Ranchers (Council). The Council is a discretionary advisory council that operates under the provisions of the FACA and reports to the Secretary of Agriculture. The purpose of this Council is: (1) To advise the Secretary of Agriculture on issues related to the participation of Native American farmers and ranchers in USDA programs; (2) to transmit recommendations concerning any changes to regulations or internal guidance or other measures that would eliminate barriers to program participation for Native American farmers and ranchers; (3) to examine methods of maximizing the number of new farming and ranching opportunities created through enhanced extension, sound conservation practices, targeted rural business services, and financial literacy services; (4) to examine methods of encouraging intergovernmental cooperation to mitigate the effects of land tenure and probate issues on the delivery of USDA programs; (5) to evaluate other methods of creating new farming or ranching opportunities for Native American producers; and (6) to address other Native American related issues as deemed appropriate.

The Council has 15 members, 11 of whom will be Native American leaders or persons who represent the interests of Native American tribes or Native American organizations. The term "Native American leaders" is not limited to elected Tribal representatives or members or persons with Native American ancestry. The remaining four members are the following high-ranking USDA officials: (1), Director, Office of

Tribal Relations; (2), Administrator, Farm Service Agency; (3), Chief, Natural Resources and Conservation Services; and (4) Assistant Secretary, Office of the Assistant Secretary for Civil Rights.

Members serve without compensation, but may receive reimbursement for travel expenses and per diem in accordance with USDA travel regulations for attendance at Council functions. Council members who represent the interests of Native American farmers and ranchers may also be paid an amount not less than $100 per day for time spent away from their employment or farming or ranching operation, subject to the availability of funds. Members may include:

(1) Native American farmers or ranchers who have participated in USDA loan, grant, conservation, or payment programs;

(2) Representatives of organizations with a history of working with Native American farmers or ranchers;

(3) Representatives of tribal governments with demonstrated experience working with Native American farmers or ranchers; and

(4) Such other persons as the Secretary considers appropriate.

No individual who is currently registered as a Federal lobbyist is eligible to serve as a member of the Council.

The Secretary of Agriculture invites those individuals, organizations, and groups affiliated with the categories listed above or who have knowledge of issues related to the purpose of the Council to nominate individuals for membership on the Council. Individuals and organizations who wish to nominate experts for this or any other USDA advisory council should submit a letter to the Secretary listing these individuals' names and business address, phone, and email contact information. The Secretary of Agriculture seeks a diverse group of members representing a broad spectrum of persons interested in providing suggestions and ideas on how USDA can tailor its farm programs to meet the needs of Native American farmers and ranchers. Individuals receiving nominations will be contacted and asked to return the AD–755 application form and a resume within 10 business days of notification. All candidates will be vetted and considered for appointment by the Secretary of Agriculture. Equal opportunity practices will be followed in all appointments to the Council in accordance with USDA policies. The Council will meet at least once per fiscal year.

Dated: June 30, 2016.

**Gregory L. Parham,**

*Assistant Secretary for Administration.*

[FR Doc. 2016–16099 Filed 7–1–16; 4:15 pm]

BILLING CODE 3410–01–P

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## DEPARTMENT OF AGRICULTURE

### Rural Housing Service

### Notice of Solicitation of Applications (NOSA) for Loans to Re-Lenders Under the Community Facility Loan Program for Fiscal Year (FY) 2016

**AGENCY:** Rural Housing Service, USDA.

**ACTION:** Notice; applications for Re-lenders.

**SUMMARY:** The Rural Housing Service (RHS) has amended the Community Facility Direct Loan regulations to enable the Agency to make loans to qualified Re-lenders who will loan those funds to Applicants primarily for projects in or serving persistent poverty counties or high poverty areas that are eligible under the Community Facility Loan Program.

**DATES:** To apply for funds, the Agency must receive a complete application by 5 p.m. Eastern Daylight Time on August 8, 2016.

**ADDRESSES:** Applications must be submitted to: Kristen Grifka, 1400 Independence Ave. SW., Stop 0787, Room 0175, Washington, DC 20250–0787.

**FOR FURTHER INFORMATION CONTACT:** Please contact Kristen Grifka at (202) 720–1504 or via email at *kristen.grifka@wdc.usda.gov* for further information.

**SUPPLEMENTARY INFORMATION:**

## Overview

*Solicitation Title:* Community Facility Direct Loan Program—Re-lending.

*Announcement Type:* Initial Notice.

*Catalog of Federal Domestic Assistance Number:* 10.766.

*Dates:* For the list of dates please refer to the **DATES** section above.

*Availability of Notice:* This Notice is available through the USDA Rural Development site at: *http://www.rd.usda.gov/newsroom/notices-solicitation-applications-nosas.*

## I. Funding Opportunity Description

### *A. Purpose*

The purpose of this Notice is to seek applications from Re-lenders who would loan those funds to Applicants primarily for projects in or serve persistent poverty counties or high poverty areas that are eligible under the Community Facility (CF) Direct Loan Program.

### *B. Statutory Authority*

This program is authorized in 5 U.S.C. 301; 7 U.S.C. 1989; 7 U.S.C. 1926(a)(1).

## II. Award Information

*Type of Awards:* Direct Loans will be made to eligible Re-lenders for the purpose of lending these funds to eligible CF applicants for eligible CF purposes in accordance with 7 CFR part 1942.

*Fiscal Year Funds:* $500 Million of FY 2016 Direct CF Loan funds.

*Available Funds:* The Agency will make available $500 Million of Direct CF Loan funds to eligible Re-lenders for the purpose of carrying out this notice.

*Award Amounts:* Direct loans will be made in amounts based upon the availability of $500 Million of CF Direct Loan funds.

*Award Dates:* Awards will be made on or before September 30, 2016.

## III. Definitions

Aeris Financial Strength and Performance Rating—Aeris is ratings system that rates community development financial institutions (CDFI). The Aeris rating methodology is designed for non-depository CDFIs that have a majority of their assets invested in loans (as opposed to real estate, equity, or equity-like investments), and have at least five years of financing history. The Financial Strength and Performance Rating is an assessment conducted by AERIS of the CDFI's overall creditworthiness that is based on an analysis of past financial performance, current financial strength, and apparent risk factors.

*Applicant.* Those eligible entities described in 7 CFR 1942.17(b)(1) making application to the Re-lender to borrow funds for an eligible Community Facilities project.

*Borrower.* An Applicant who has received a loan from a Re-lender.

*Full Recourse.* Notwithstanding any provisions of the loan documents issued by the Re-lender for a Community Facilities project to the contrary, the Re-lender shall be fully and severally liable for the payment and performance of all obligations under the debt instrument issued to the Agency, regardless if the Re-lender and applicant's assets financed by advancing relending funds have been fully liquidated and are inadequate to fully pay the loan amount, accrued interest, and all other related costs the Re-lender is liable for.

*High Poverty Area.* A census tract with a poverty rate greater than or equal to 20%. Areas that are considered to be High Poverty may be found on the following Web site: *http://*

*rdgisportal.sc.egov.usda.gov/home/index.html* entitled "High Poverty Targeting." A project is considered to be located in a High Poverty Area when the structure, equipment, or other hard assets are physically built and/or placed in a High Poverty Area. A project is considered to be serving a High Poverty Area if the physical structure, equipment, or other hard assets serves residents who live in a High Poverty Area.

*Irrevocable Letter of Credit.* Firm commitment by an issuing bank to pay the Agency a specified sum in a specified currency, provided the conditions included in the Letter of Credit document are met within a specified timeframe. This Letter of Credit cannot be canceled without the Agency's prior written approval.

*Letter of Intent.* Written documentation, acceptable by the Agency, from a financial institution stating the financial institution will issue an Irrevocable Letter of Credit or similar instrument such as a cash collateral account or prior to any funds being disbursed by the Agency.

*Persistent Poverty County(ies).* Counties where 20 percent or more of county residents were poor as measured by each of the 1980, 1990, and 2000 censuses, and 2007–11 American Community Survey 5-year average. Counties that are considered to be Persistent Poverty may be found under the map entitled "Persistent Poverty" on the following Web site: *http://www.ers.usda.gov/data-products/county-typology-codes/descriptions-and-maps.aspx#ppov.* A project is considered to be located in a *Persistent Poverty County when the structure, equipment, or other hard assets are* physically built and/or placed in a Persistent Poverty County. A project is considered to be serving Persistent Poverty County(ies) if the physical structure, equipment, or other hard assets serves residents who live in Persistent Poverty County(ies).

*Re-lender.* Eligible lending institutions under section IV of this Notice who lend funds to eligible Applicants for projects eligible under 7 CFR part 1942.

## IV. Eligibility Information

A. *Re-Lender Eligibility.* Re-lenders must meet each of the following requirements:

(a) Meet the re-lender requirements as outlined in 7 CFR 1942.30;

(b) Demonstrate the legal authority necessary to make and service loans involving community infrastructure and development similar to the type of projects listed in 7 CFR 1942.17(d);

(c) Meet federal, state and local requirements in accordance with 7 CFR 1942.17(k);

(d) Demonstrate that at least 30 percent of its existing portfolio is for projects located in or serving Persistent Poverty County(ies) or High Poverty Areas; or that the Re-lender has at least 3 years of experience making loans for projects located in or serving Persistent Poverty County(ies) or High Poverty Area(s);

(e) Agree to provide adequate collateral, as determined by the Agency, to support the loan request;

(f) Provides a Letter of Intent from a financial institution that an Irrevocable Letter of Credit or similar instrument such as a cash collateral account or performance guarantee acceptable to the Agency will be issued by the financial institution if the Re-lender is approved for funding;

(g) Unless otherwise required in this Notice, agree to provide an Irrevocable Letter of Credit (or similar instrument such as a cash collateral account or a Performance Guarantee) acceptable to the Agency in the minimum amount equal to the principal and interest installments due the Government during the first 5 years of the loan prior to receiving loan disbursements;

(h) Demonstrate one of the following:

(1) Re-lender is regulated and supervised by a Federal or State Banking Regulatory Agency that is subject to credit examination, AND the institution, its subsidiaries, holding companies, and affiliates are not on their respective regulatory agency's watch list and have no regulatory actions outstanding against them; AND such Federal or State Banking Regulatory Agency has certified that the Re-lender has the financial capacity to receive Agency funding. If the Agency doesn't receive the requisite certification from the Federal or State Banking Regulatory Agency, then the Re-lender has not met this criteria. The Agency reserves the right to reduce funding amounts based on information received from the Federal or State Banking Regulatory Agency and based on the agency's determination of available funding or other agency funding priorities; or

(2) Re-lender has an Aeris Financial Strength and Performance Rating of 1 or 2 within the past two years; the achieved rating must indicate financial strength, performance, and risk management practices that consistently provide for safe and sound operations. Re-lender grants the Agency permission to review all documents submitted to Aeris. If Agency reviews such documentation and finds documentation to be insufficient then this criteria has not been met. The Agency reserves the right to reduce funding amounts based on review of such documentation and based on the agency's determination of available funding or other agency funding priorities; or

(3) At the time of application, re-lender provides written documentation, acceptable to the Agency, from a financial institution that an Irrevocable Letter of Credit or similar instrument such as a cash collateral account or a performance guarantee acceptable to the Agency will be issued by the financial institution, if the Re-lender is approved for funding; and the re-lender:

(i) Obtains an Aeris Financial Strength and Performance Rating of 1 or 2 prior to any funds being advanced. Re-lender grants the Agency permission to review all documents submitted to Aeris. If Agency reviews such documentation and finds documentation to be insufficient then this criteria has not been met. The Agency reserves the right to reduce funding amounts based on review of such documentation and based on the agency's determination of available funding or other agency funding priorities; or

(ii) Proves to be a financially sound institution, as determined by the Agency, based on the Agency's risk assessment of the institution's adequate capital, adequate liquidity, management capabilities, repayment ability, credit worthiness, balance sheet equity and other financial factors as determined appropriate. The Agency reserves the right to reduce funding amounts based on review of financial factors and based on the agency's determination of available funding or other agency funding priorities.

(i) Be a legal, non-governmental entity at the time of application (with the exception of Tribal governmental entities);

(j) Be a member of a national organization that provides training, technical assistance and credit evaluation of member organizations, such as FDIC, NCUA or other similar organizations; or be certified by a Government agency as having a primary mission of promoting community development in low-income target markets and perform training and technical assistance as part of that mission; and

(k) Agrees to loan a majority of Agency funds to applicants whose projects are located in or serve Persistent Poverty County(ies) or High Poverty Area(s).

B. *Applicant Eligibility.* Applicants applying for loans from the Re-lender must meet the eligibility requirements of 7 CFR 1942.17.

C. *Project Eligibility.*

(a) Facilities must be located in rural areas in accordance with 7 CFR 1942.17(b)(2), and comply with all project eligibility requirements as outlined in 7 CFR part 1942.

(b) Essential community facilities associated with Re-lending projects must:

(1) Carry out a function customarily provided by a local unit of government;

(2) Be a public improvement needed for orderly development of a rural community;

(3) Not include private affairs, commercial or business undertaking (except for limited authority for industrial parks);

(4) Be operated on a nonprofit basis; and

(5) Be considered the area of jurisdiction or operation for public bodies eligible to receive assistance or a similar local rural service area of a not-for-profit corporation owning and operating an essential community facility. A community may be a small city or town, county, or multi-county area depending on the type of essential community facility involved. The applicant must have the legal authority and responsibility to carry out the project. The term "facility" refers to the physical structure financed or the resulting service provided to rural residents under the CF program.

(c) For essential community facilities, the terms "rural" and "rural area" will not include any area in any city or town with a population in excess of 20,000 inhabitants, according to the latest decennial Census of the United States in accordance with 7 CFR 1942.17(b)(2)(iv).

(d) In accordance with 7 CFR 1942.17(d)(1)(i)(B), essential community facilities are those public improvements requisite to the beneficial and orderly development of a community operated on a nonprofit basis, including but not limited to:

(1) Health services (*e.g.,* Hospitals, medical and dental clinics, skilled nursing facilities, assisted living facilities, telemedicine equipment);

(2) Public services (*e.g.,* Town halls, courthouses, airport hangers, fire hall, police station, prison, police vehicles, fire trucks, public works vehicles, equipment);

(3) Community, social or cultural services (*e.g.,* Childcare centers, community centers, transitional housing, libraries, schools (including public, private and charter), distance learning equipment, community gardens, food pantries, community kitchens, food banks, food hubs or greenhouses); and

(4) Transportation facilities, such as streets, roads and bridges.

(5) Loan Funds may NOT be used for prohibited purposes listed at 7 CFR 1942.17(d)(2).

## V. Application Submission, Evaluation, and Selection Process

A. *Application Submission.* The forms listed below can be found at: *http://forms.sc.egov.usda.gov/eForms/welcomeAction.do?Home.* To apply for funds under this Notice, a Re-lender must submit the following items, as applicable:

(a) Its DUNS number. An organization may obtain a DUNS number from Dun and Bradstreet by calling (1–866–705–5711).

(b) The Re-lender must provide documentation that they are registered in System for Award Management (SAM.gov).

(c) SF–424, "Application for Federal Assistance (For Non-Construction).

(d) SF424–A, "Budget Information—Non-Construction Programs."

(e) SF–424–B "Assurances—Non Construction."

(f) Form RD 442–7 "Operating Budget" or similar form.

(g) AD–1047 "Certificate Regarding Debarment."

(h) RD Form 400–4 "Assurance Agreement."

(i) RD Instruction 1970–A, Exhibit A, "Multi-tier Action Environmental Compliance Agreement."

(j) Certification regarding relationship with any Agency employee.

(k) AD–3030 "Representations regarding Felony convictions and tax delinquency status" (Corporations only).

(l) AD–3031 "Assurances regarding Felony convictions and tax delinquency status" (Corporations Only).

(m) Discussion and documentation of each evaluation factor listed in Part V(B).

(n) Certification of Non Lobbying Activities.

(o) SF–LLL "Disclosure of Lobbying Activities."

(p) Re-lenders applying under paragraph (IV)(A)(e)(3)(b)(Agency risk assessment) must also submit all of the following:

(1) 3 years audited financial statements;

(2) Interim financial statements as of most recent quarter end;

(3) Auditor's most recent management letter and management's response ;

(4) Operating Budget versus Actual for last completed fiscal year and most recent quarter-end;

(5) Schedule of outstanding debt (name of creditor, balance, origination and maturity dates, note rate, collateralization), and attach covenants;

(6) Schedule of five largest sources of grant funding over each of the last 3 fiscal years (including grantor name, amount granted, description of allowable uses or any restrictions);

(7) Schedule of five largest investors over each of the last 3 fiscal years (including investor name, total investment, form of investment, description of allowable uses or any restrictions);

(8) Schedule of any other funding sources, including off-balance sheet financing, for the last completed fiscal year and most recent quarter-end;

(9) List and description of any contingent liabilities;

(10) Schedule of loans receivable (including borrower, loan type, description of collateral, original and maturity dates, note rate, current status *e.g.* delinquency or nonaccrual);

(11) Schedule of loans restructured and modified in each of the last 3 fiscal years and most recent year to date (YTD) (including borrower, pre and post-mod loan terms, and current payment status);

(12) Schedule of loans charged off in each of the last 3 fiscal years and most recent YTD, with any recoveries realized;

(13) Any external loan reviews performed over the last 3 years;

(14) Bylaws;

(15) Credit policies and procedures (loan underwriting, servicing, portfolio management);

(16) Loan risk grading and assessment system;

(17) Enterprise risk management policies and procedures;

(18) Disaster recovery plan, if any;

(19) Accounting policies (including loss reserve policies);

(20) Staff organizational chart, including names and titles for senior staff;

(21) Organizational chart showing relationships to any parents, subsidiaries, or affiliates;

(22) Management Team resumes;

(23) Succession plans for key leadership and staff;

(24) Board roster, with affiliations;

(25) Board meeting minutes for past year;

(26) Board meeting packets for last year;

(27) Most recent strategic plan;

(28) Most recent annual report; and

(29) Description of programs, financial and non-financial products and services.

(q) Documentation that the re-lender meets all eligibility requirements listed in this Notice.

(r) Documentation of any evaluation factors listed below that the re-lender wants the Agency to consider.

B. *Evaluation.* The Agency will score and rank all eligible and complete Re-lender applications based upon the following evaluation factors:

(a) Lending experience and strength of the Re-lender: A Re-lender that has demonstrated experience administering community infrastructure or development loan funds will be awarded points as follows:

(1) More than 10 years of experience: 10 Points;

(2) 5 years of experience but less than or equal to 10 years: 5 Points;

(b) Poverty and project service area. Re-lenders who demonstrate that they have a lending history in Persistent Poverty County(ies) or Poverty Areas:

(1) More than 75% of the Re-Lender's loan portfolio is for projects located in or serve Persistent Poverty County(ies) or High Poverty Area(s): 30 points;

(2) More than 50% of the Re-Lender's loan portfolio is for projects located in or serve Persistent Poverty County(ies) or High Poverty Area(s): 20 points; and

(3) More than 30% of the Re-Lender's loan portfolio is for projects located in or serve Persistent Poverty County (ies) or High Poverty Area(s): 10 points.

(b) Administrator's Discretionary Points:

(c) Up to 10 Administrator points may be awarded to applications that address geographic distribution of funds, emergency conditions caused by economic problems, natural disasters and other initiatives that support the Agency's strategic plan.

C. The Agency will select the highest scoring applications based upon the evaluation factors listed above.

D. If an application that is filed by the application deadline is determined by the Agency to be substantially complete, the Agency will notify the submitter of the elements that are needed to make the application complete and will provide the submitter five calendar days to provide information that fully addresses such elements. If the application is not complete at the end of this five day period, the application will be rejected.

## VI. Award Administration Information

### *A. Award Notices*

The Agency will notify Re-Lenders about the status of their applications in the same method as listed in 7 CFR part 1942, subpart A.

Prior to receiving a direct loan from the Agency, eligible Re-Lenders who are chosen to receive funding for the purpose of re-lending must:

(a) Enter into a Re-Lenders Agreement provided by the Agency;

(b) Execute a promissory note;

(c) Provide adequate security satisfactory to the Agency;

(d) Agree to provide the Agency with an irrevocable letter of credit (or similar instrument such as a cash collateral account or a Performance Guarantee) acceptable to the Agency in the minimum amount equal to the principal and interest installments due during the first 5 years of the loan prior to receiving any loan disbursements; and

(e) Meet any other loan conditions imposed by the Agency.

### *B. Reporting Requirements*

(a) The Re-lender must submit the following information to the Agency, after any loan disbursement is made,

(1) On a quarterly basis:

(i) Financial statements;

(ii) List of CF Borrowers, outstanding principal and interest balances for each Borrower;

(iii) Status of CF loan for each Borrower;

(iv) Amount and due date of the next installment due from the Borrower; and

(v) Servicing Actions conducted for each delinquent CF loan.

(2) On an annual basis:

(i) Annual audited financial statement;

(ii) Copy of most recent Financial Strength and Performance Rating which is not more than 3 years old;

(iii) Documentation of Fidelity Bond coverage; and

(iv) Civil Rights data for each Applicant.

C. *Planning, bidding, contracting, and construction.* Re-lenders must certify to the Agency that the Borrower has met the requirements of 7 CFR 3575.42 and 3575.43 for all planning, bidding, contracting and construction.

(a) The Re-lender will provide the Agency with a written certification at the end of construction that all funds were utilized for authorized purposes. The Re-lender will ensure that designs and construction meet all applicable Federal, State, and local laws.

(1) Architectural and engineering practices. All project facilities must be designed utilizing accepted architectural and engineering practices and must conform to applicable Federal, State, and local codes and requirements. The Re-lender must ensure that the planned project will be completed within the available funds and, once completed, will be suitable for the borrower's needs.

(2) Construction monitoring. The Re-lender will monitor the progress of construction and undertake the reviews and inspections necessary to ensure that construction proceeds in accordance with the approved plans, specifications, and contract documents and that funds are used for eligible project costs.

(3) Equal employment opportunities. For all construction contracts in excess of $10,000, the contractor must comply with Executive Order 11246 entitled "Equal Employment Opportunity" as amended and as supplemented by applicable Department of Labor regulations (41 CFR part 60–1). The Borrower and Re-lender are responsible for ensuring that the contractor complies with these requirements. (RD Forms 400–1 and 400–6 may be used to meet this requirement.)

(4) Americans with Disabilities Act. Projects which involve the construction of, or addition to, facilities that accommodate the public and commercial facilities as defined by the Americans with Disabilities Act (42 U.S.C. 12181 *et seq.*) must comply with that Act. The Re-lender and borrower are responsible for compliance.

(b) Other Federal, State, and local requirements. Borrowers and Re-lenders will be required to comply with any Federal, State, or local laws or regulatory commission rules which affect the project including, but not limited to, those regarding:

(1) Organization and authority to design, construct, develop, operate, and maintain the proposed facilities;

(2) Borrowing money, giving security, and raising revenues for the repayment;

(3) Land use zoning;

(4) Health, safety, and sanitation standards, including seismic safety requirements of Executive Order 12699; and

(5) Protection of the environment and consumer affairs.

D. *National Environmental Policy Act (NEPA) environmental review requirements.* NEPA requirements are outlined in 7 CFR 1942.2(b) and part 1970. The re-lender will need to comply with and agree in writing to requirements under the Re-lender Environmental Compliance Agreement. RD Instruction 1970 can be found at: *http://www.rd.usda.gov/publications/regulations-guidelines/instructions.*

E. *Civil Rights.* The Re-lender and Borrowers must comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, Age Discrimination Act of 1975, Executive Order 12250, Executive Order 13166 Limited English Proficiency (LEP), and 7 CFR part 1901, subpart E.

The re-lender is also subject to the Equal Credit Opportunity Act.

(a) The re-lender agrees:

(1) To have each prospective Applicant sign Form RD 400–4, Assurance Agreement, which assures USDA that the recipient is in compliance with title VI of the Civil Rights Act of 1964, 7 CFR part 15 and other Agency regulations.

(2) That no person will be discriminated against based on race, color or national origin, in regard to any program or activity for which the re-lender receives Federal financial assistance.

(3) That nondiscrimination statements are in advertisements and brochures.

(4) To collect and maintain data on applicants by race, sex, and national origin of the Applicants and Borrowers, and ensure that the borrowers also collect and maintain the same data on the entities benefiting from those projects.

(5) The projects supported with Agency funds will not cause any adverse human health or environmental effects on minority and low-income populations.

(6) The Agency will use the above information to complete Civil rights compliance reviews within the first year after the initial loan closing and thereafter at intervals of not more than 3 years until the CF direct loan funds have all been re-lent.

(7) For other Federal, State and Local Requirements, see 7 CFR 1942.17(k).

(8) Any loan funds not disbursed within 5 years of the loan to the Re-Lender will be deobligated and become unavailable for disbursement.

## VII. Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, familial/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.*, Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *http://www.ascr.usda.gov/complaint_filing_cust.html* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992, submit your completed form or letter to USDA by:

*Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250–9410;

*Fax:* (202) 690–7442; or

*email:* program.intake@usda.gov.

USDA is an equal opportunity provider, employer, and lender.

Dated: June 27. 2016.

**Lisa Mensah,**

*Under Secretary, Rural Development.*

[FR Doc. 2016–16003 Filed 7–5–16; 8:45 am]

**BILLING CODE 3410–XV–P**

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## DEPARTMENT OF COMMERCE

## International Trade Administration

**[A–583–848]**

## Certain Stilbenic Optical Brightening Agents From Taiwan: Final Results of Antidumping Duty Administrative Review; 2014–2015

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** On February 26, 2016, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain stilbenic optical brightening agents (OBAs) from Taiwan.[1] The period of review (POR) is May 1, 2014, through April 30, 2015. The review covers one producer/exporter of the subject merchandise, Teh Fong Ming International Co., Ltd. (TFM). For the final results, we find that TFM has sold subject merchandise at less than normal value.

**DATES:** *Effective Date:* July 6, 2016.

**FOR FURTHER INFORMATION CONTACT:** Catherine Cartsos or Minoo Hatten, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1757, and (202) 482–1690, respectively.

**SUPPLEMENTARY INFORMATION:**

### Background

On February 26, 2016, the Department published the *Preliminary Results* of this review in the **Federal Register**. We invited parties to comment on the *Preliminary Results*. On March 28, 2016, TFM submitted a case brief. On April 4, 2016, Archroma U.S., Inc., a domestic producer of merchandise, submitted a rebuttal brief. At the request of TFM,[2] we held a hearing on May 11, 2016.[3] The Department conducted this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act).

### Scope of the Order

The merchandise subject to the *Order*[4] is OBAs and is currently classifiable under subheadings 3204.20.8000, 2933.69.6050, 2921.59.4000 and 2921.59.8090 of the Harmonized Tariff Schedule of the United States (HTSUS). While the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive.[5]

### Analysis of the Comments Received

All issues raised in the case brief and rebuttal brief submitted in this review are addressed in the Issues and Decision Memorandum, which is hereby adopted with this notice. A list of the issues raised is attached as an Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and it is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.*

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[1] *See Certain Stilbenic Optical Brightening Agents From Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2014–2015,* 81 FR 9805 (February 26, 2016) (*Preliminary Results*) and accompanying decision memorandum (Preliminary Decision Memorandum).

[2] *See* letter from TFM dated March 19, 2016.

[3] *See* hearing transcript, filed on the record May 17, 2016.

[4] *See Certain Stilbenic Optical Brightening Agents From Taiwan: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 77 FR 27419 (May 10, 2012) (*Order*).

[5] A full description of the scope of the *Order* is contained in the memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Certain Stilbenic Optical Brightening Agents from Taiwan: Issues and Decision Memorandum for Final Results of Antidumping Duty Administrative Review; 2014–2015" dated concurrently with and hereby adopted by this notice (Issues and Decision Memorandum).

### Changes Since the Preliminary Results

Based on our analysis of the comments received, we have not made changes to the *Preliminary Results*. For a discussion of our analysis of the comments received, *see* Issues and Decision Memorandum.

### Final Results of Review

For the final results of this review, in accordance with sections 776(a) and (b) of the Act, we continued to rely on facts available with an adverse inference to establish a rate of 6.19 percent as the weighted-average dumping margin for TFM for the period May 1, 2014, through April 30, 2015. As the Department explained in the Preliminary Decision Memorandum, the 6.19 percent rate is the highest applied margin in a separate segment of the same proceeding, and according to 776(c)(2) of the Act, this rate does not require corroboration.[6]

### Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to apply an *ad valorem* assessment rate of 6.19 percent to all entries of subject merchandise during the POR which were produced and/or exported by TFM. We intend to issue instructions to CBP 15 days after publication of the final results of this review.

### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of OBAs from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for TFM will be 6.19 percent, the weighted average dumping margin established in the final results of this administrative review; (2) for other manufacturers and exporters covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 6.19 percent, the all-others rate established in the less than fair value investigation.[7] These cash deposit requirements, when imposed, shall remain in effect until further notice.

### Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

### Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 27, 2016.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

### Appendix—List of Topics Discussed in the Issues and Decision Memorandum

Summary
Background
Scope of the Order
Discussion of the Issues
  Comment 1: Questionnaire Original Deadline
  Comment 2: Hindrance of Proceeding
  Comment 3: Opportunity To Remedy Under the Statute and Regulations
  Comment 4: Untimely Extension Request Due to Extraordinary Circumstances
  Comment 5: *Per Se* Rule Decision Making
  Comment 6: Focus on Adverse Facts Available (AFA) Rate and Not on Decision To Apply AFA
  Comment 7: Rejection Letter Attachment
  Comment 8: Addressing the Facts of the Case
  Comment 9: Neutral Facts Available Recommendation

[FR Doc. 2016–15834 Filed 7–5–16; 8:45 am]

**BILLING CODE 3510–DS–P**

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[6] *See* Preliminary Decision Memorandum at 10.

[7] The all-others rate established in the *Order.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

### Meeting of the United States Manufacturing Council

**AGENCY:** International Trade Administration, U.S. Department of Commerce.

**ACTION:** Notice of an open meeting.

**SUMMARY:** The United States Manufacturing Council (Council) will hold an open meeting via teleconference on Wednesday, July 20, 2016. The Council was established in April 2004 to advise the Secretary of Commerce on matters relating to the U.S. manufacturing industry. The purpose of the meeting is for Council members to review and deliberate on proposed recommendations by the Innovation, Research, and Development Subcommittee focused on the transition of the Internet Assigned Numbers Authority. The final agenda will be posted on the Department of Commerce Web site for the Council at *http://www.trade.gov/manufacturingcouncil/,* at least one week in advance of the meeting.

**DATES:** Wednesday, July 20, 12 p.m.–1 p.m. The deadline for members of the public to register, including requests to make comments during the meeting and for auxiliary aids, or to submit written comments for dissemination prior to the meeting, is 5 p.m. EDT on July 12, 2016.

**ADDRESSES:** The meeting will be held by conference call. The call-in number and passcode will be provided by email to registrants. Requests to register (including to speak or for auxiliary aids) and any written comments should be submitted to: U.S. Manufacturing Council, U.S. Department of Commerce, Room 4043, 1401 Constitution Avenue NW., Washington, DC, 20230; email: *archana.sahgal@trade.gov.* Members of the public are encouraged to submit registration requests and written comments via email to ensure timely receipt.

**FOR FURTHER INFORMATION CONTACT:** Archana Sahgal, U.S. Manufacturing

Council, Room 4043, 1401 Constitution Avenue, NW., Washington, DC, 20230, telephone: 202–482–4501, email: *archana.sahgal@trade.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background:* The Council advises the Secretary of Commerce on matters relating to the U.S. manufacturing industry.

*Public Participation:* The meeting will be open to the public and will be accessible to people with disabilities. All guests are required to register in advance by the deadline identified under the **DATES** caption. Requests for auxiliary aids must be submitted by the registration deadline. Last minute requests will be accepted, but may be impossible to fill. There will be fifteen (15) minutes allotted for oral comments from members of the public joining the call. To accommodate as many speakers as possible, the time for public comments may be limited to three (3) minutes per person. Individuals wishing to reserve speaking time during the meeting must submit a request at the time of registration, as well as the name and address of the proposed speaker. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the International Trade Administration may conduct a lottery to determine the speakers. Speakers are requested to submit a written copy of their prepared remarks by 5:00 p.m. EDT on July 12, 2016, for inclusion in the meeting records and for circulation to the members of the U.S. Manufacturing Council.

In addition, any member of the public may submit pertinent written comments concerning the Council's affairs at any time before or after the meeting. Comments may be submitted to Archana Sahgal at the contact information indicated above. To be considered during the meeting, comments must be received no later than 5 p.m. EDT on July 12, 2016, to ensure transmission to the Council prior to the meeting. Comments received after that date and time will be distributed to the members but may not be considered on the call. Copies of Council meeting minutes will be available within 90 days of the meeting.

Dated: June 27, 2016.

**Archana Sahgal,**

*Executive Secretary, U.S. Manufacturing Council.*

[FR Doc. 2016–16015 Filed 7–5–16; 8:45 am]

**BILLING CODE 3510–DR–P**

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

**RIN 0648–XE490**

## Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the San Francisco Ferry Terminal Expansion Project, South Basin Improvements Project

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; issuance of an incidental harassment authorization.

**SUMMARY:** In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that we have issued an incidental harassment authorization (IHA) to The San Francisco Bay Area Water Emergency Transportation Authority (WETA) to incidentally harass marine mammals during construction activities associated with the San Francisco Ferry Terminal, South Basin Improvements project in San Francisco, CA.

**DATES:** This authorization is effective from June 28, 2016 through December 31, 2016.

**FOR FURTHER INFORMATION CONTACT:** Laura McCue, Office of Protected Resources, NMFS, (301) 427–8401.

**SUPPLEMENTARY INFORMATION:**

### Availability

An electronic copy of WETA's application and supporting documents, as well as a list of the references cited in this document, and the final Environmental Assessment (EA) and our associated Finding of No Significant Impact, prepared pursuant to the National Environmental Policy Act may be obtained by visiting the Internet at: *www.nmfs.noaa.gov/pr/permits/incidental/construction.html.* In case of problems accessing these documents, please call the contact listed above (see **FOR FURTHER INFORMATION CONTACT**).

### Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified area, the incidental, but not intentional, taking of small numbers of marine mammals, providing that certain findings are made and the necessary prescriptions are established.

The incidental taking of small numbers of marine mammals may be allowed only if NMFS (through authority delegated by the Secretary) finds that the total taking by the specified activity during the specified time period will (i) have a negligible impact on the species or stock(s) and (ii) not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). Further, the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking must be set forth, either in specific regulations or in an authorization.

The allowance of such incidental taking under section 101(a)(5)(A), by harassment, serious injury, death, or a combination thereof, requires that regulations be established. Subsequently, a Letter of Authorization may be issued pursuant to the prescriptions established in such regulations, providing that the level of taking will be consistent with the findings made for the total taking allowable under the specific regulations. Under section 101(a)(5)(D), NMFS may authorize such incidental taking by harassment only, for periods of not more than one year, pursuant to requirements and conditions contained within an IHA. The establishment of prescriptions through either specific regulations or an authorization requires notice and opportunity for public comment.

NMFS has defined "negligible impact" in 50 CFR 216.103 as ". . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival." Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines "harassment" as: ". . . any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment]."

### Summary of Request

On February 8, 2016, we received a request from WETA for authorization of the taking, by level B harassment only, of marine mammals, incidental to pile driving and removal in association with the San Francisco Ferry Terminal Expansion Project, South Basin

Improvements Project in San Francisco Bay, California. That request was modified to include additional species and additional monitoring and mitigation measures on March 28, 2016 and May 2, 2016, and a final version, which we deemed adequate and complete, was submitted on May 13, 2016, which included revised take numbers and additional mitigation measures. In-water work associated with the project is expected to be completed within 23 months. This proposed IHA is for the first phase of construction activities, to occur in 2016.

The use of both vibratory and impact pile driving and removal is expected to produce underwater sound at levels that have the potential to result in behavioral harassment of marine mammals. Seven species of marine mammals have the potential to be affected by the specified activities: harbor seal (*Phoca vitulina*), California sea lion (*Zalophus californianus*), Northern elephant seal (*Mirounga angustirostris*), Northern fur seal (*Callorhinus ursinus*), harbor porpoise (*Phocoena phocoena*), gray whale (*Eschrichtius robustus*), and bottlenose dolphin (*Tursiops truncatus*). These species may occur year round in the action area.

Similar construction and pile driving activities in San Francisco Bay have been authorized by NMFS in the past. These projects include construction activities at the Exploratorium (75 FR 66065), pier 36 (77 FR 20361), and the Oakland Bay Bridge (71 FR 26750; 72 FR 25748; 74 FR 41684; 76 FR 7156; 78 FR 2371; 79 FR 2421; and 80 FR 43710).

## Description of the Specified Activity

### *Overview*

The San Francisco Bay Area Water Emergency Transportation Authority (WETA) is expanding berthing capacity at the Downtown San Francisco Ferry Terminal (Ferry Terminal), located at the San Francisco Ferry Building (Ferry Building), to support existing and future planned water transit services operated on San Francisco Bay by WETA and WETA's emergency operations.

The Downtown San Francisco Ferry Terminal Expansion Project would eventually include phased construction of three new water transit gates and overwater berthing facilities, in addition to supportive landside improvements, such as additional passenger waiting and queuing areas, circulation improvements, and other water transit–related amenities. The new gates and other improvements would be designed to accommodate future planned water transit services between Downtown San Francisco and Antioch, Berkeley, Martinez, Hercules, Redwood City, Richmond, and Treasure Island, as well as emergency operation needs. According to current planning and operating assumptions, WETA will not require all three new gates (Gates A, F, and G) to support existing and new services immediately. As a result, WETA is planning that project construction will be phased. The first phase will include construction of Gates F and G, as well as other related improvements in the South Basin.

### *Dates and Duration*

The total project is expected to require a maximum of 130 days of in-water pile driving. The project may require up to 23 months for completion; with a maximum of 106 days for pile driving in the first year. In-water activities are limited to occur between June 28, 2016 and November 30, 2016 and June 1 through November 30, 2017. If in-water work will extend beyond the effective dates of the IHA, a second IHA application will be submitted by WETA. This proposed authorization would be effective from June 28, 2016 to December 31, 2016.

### *Specific Geographic Region*

The San Francisco ferry terminal is located in the western shore of San Francisco Bay (see Figure 1 of WETA's application). The ferry terminal is five blocks north of the San Francisco Oakland Bay Bridge. More specifically, the south basin of the ferry terminal is located between Pier 14 and the ferry plaza. San Francisco Bay and the adjacent Sacramento-San Joaquin Delta make up one of the largest estuarine systems on the continent. The Bay has undergone extensive industrialization, but remains an important environment for healthy marine mammal populations year round. The area surrounding the proposed activity is an intertidal landscape with heavy industrial use and boat traffic.

### *Detailed Description of Activities*

The project supports existing and future planned water transit services operated by WETA, and regional policies to encourage transit uses. Furthermore, the project addresses deficiencies in the transportation network that impede water transit operation, passenger access, and passenger circulation at the Ferry Terminal.

The project includes construction of two new water transit gates and associated overwater berthing facilities, in addition to supportive improvements, such as additional passenger waiting and queuing areas and circulation improvements in a 7.7-acre area (see Figure 1 in the WETA's application, which depicts the project area, and Figure 2, which depicts the project improvements). The project includes the following elements: (1) Removal of portions of existing deck and pile construction (portions will remain as open water, and other portions will be replaced); (2) Construction of two new gates (Gates F and G); (3) Relocation of an existing gate (Gate E); and (4) Improved passenger boarding areas, amenities, and circulation, including extending the East Bayside Promenade along Gates E, F, and G; strengthening the South Apron of the Agriculture Building; creating the Embarcadero Plaza; and installing weather protection canopies for passenger queuing.

Implementation of the project improvements will result in a change in the type and area of structures over San Francisco Bay. In some areas, structures will be demolished and then rebuilt. The project will require both the removal and installation of piles as summarized in Table 1. Demolition and construction could be completed within 23 months.

TABLE 1—SUMMARY OF PILE REMOVAL AND INSTALLATION IN 2016

| Project element | Pile diameter | Pile type | Method | Number of piles/schedule |
|---|---|---|---|---|
| Demolition in the South Basin. | 12 to 18 inches | Wood and concrete | Pull or cut off 2 feet below mud line. | 350 piles/30 days 2016. |
| Removal of Dolphin Piles in the South Basin. | 36 inches | Steel: 140 to 150 feet in length. | Pull out | Four dolphin piles/1 day. |
| Embarcadero Plaza and East Bayside Promenade. | 24 or 36 inches | Steel: 135 to 155 feet in length. | Impact or Vibratory Driver | 220 24- or 36-inch piles/65 days 2016. |

TABLE 1—SUMMARY OF PILE REMOVAL AND INSTALLATION IN 2016—Continued

| Project element | Pile diameter | Pile type | Method | Number of piles/schedule |
|---|---|---|---|---|
| Fender Piles | 14 inches | Polyurethane-coated pressure-treated wood; 64 feet in length. | Impact or Vibratory Driver | 38/10 days 2016. |

### *Removal of Existing Facilities*

As part of the project, the remnants of Pier 2 will be demolished and removed. This consists of approximately 21,000 square feet of existing deck structure supported by approximately 350 wood and concrete piles. In addition, four dolphin piles will be removed. Demolition will be conducted from barges. Two barges will be required: One for materials storage, and one outfitted with demolition equipment (crane, clamshell bucket for pulling of piles, and excavator for removal of the deck). Diesel-powered tug boats will bring the barges to the project area, where they will be anchored. Piles will be removed by either cutting them off two feet below the mud line, or pulling the pile through vibratory extraction.

### *Construction of Gates and Berthing Structures*

The new gates (Gates F and G) will be built similarly. Each gate will be designed with an entrance portal—a prominent doorway physically separating the berthing structures from the surrounding area. Berthing structures will be provided for each new gate, consisting of floats, gangways, and guide piles. The steel floats will be approximately 42 feet wide by 135 feet long. The steel truss gangways will be approximately 14 feet wide and 105 feet long. The gangway will be designed to rise and fall with tidal variations while meeting Americans with Disabilities Act (ADA) requirements. The gangway and the float will be designed with canopies, consistent with the current design of existing Gates B and E. The berthing structures will be fabricated off site and floated to the project area by barge. Six steel guide piles will be required to secure each float in place. In addition, dolphin piles may be used at each berthing structure to protect against the collision of vessels with other structures or vessels. A total of up to 14 dolphin piles may be installed.

Chock-block fendering will be added along the East Bayside Promenade, to adjacent structures to protect against collision. The chock-block fendering will consist of square, 12-inch-wide, polyurethane-coated, pressure-treated wood blocks that are connected along the side of the adjacent pier structure, and supported by polyurethane-coated, pressure-treated wood piles.

In addition, the existing Gate E float will be moved 43 feet to the east, to align with the new gates and East Bayside Promenade. The existing six 36-inch-diameter steel guide piles will be removed using vibratory extraction, and reinstalled to secure the Gate E float in place. Because of Gate E's new location, to meet ADA requirements, the existing 90-foot-long steel truss gangway will be replaced with a longer, 105-foot-long gangway.

### *Passenger Boarding and Circulation Areas*

Several improvements will be made to passenger boarding and circulation areas. New deck and pile-supported structures will be built.

- An Embarcadero Plaza, elevated approximately 3 to 4 feet above current grade, will be created. The Embarcadero Plaza will require new deck and pile construction to fill an open-water area and replace existing structures that do not comply with Essential Facilities requirements.
- The East Bayside Promenade will be extended to create continuous pedestrian access to Gates E, F, and G, as well as to meet public access and pedestrian circulation requirements along San Francisco Bay. It will extend approximately 430 feet in length, and will provide an approximately 25-foot-wide area for pedestrian circulation and public access along Gates E, F, and G. The perimeter of the East Bayside Promenade will also include a curbed edge with a guardrail.
- Short access piers, approximately 30 feet wide and 45 feet long, will extend from the East Bayside Promenade to the portal for each gate.
- The South Apron of the Agriculture Building will be upgraded to temporarily support access for passenger circulation. Depending on their condition, as determined during Final Design, the piles supporting this apron may need to be strengthened with steel jackets.
- Two canopies will be constructed along the East Bayside Promenade: one between Gates E and F, and one between Gates F and G. Each of the canopies will be 125 feet long and 20 feet wide. Each canopy will be supported by four columns at 35 feet on center, with 10-foot cantilevers at either end. The canopies will be constructed of steel and glass, and will include photovoltaic cells.

The new deck will be constructed on the piles, using a system of beam-and-flat-slab-concrete construction, similar to what has been built in the Ferry Building area. The beam-and-slab construction will be either precast or cast-in-place concrete (or a combination of the two), and approximately 2.5 feet thick. Above the structure, granite paving or a concrete topping slab will provide a finished pedestrian surface.

The passenger facilities, amenities, and public space improvements—such as the entrance portals, canopy structures, lighting, guardrails, and furnishings—will be surface-mounted on the pier structures after the new construction and repair are complete. The canopies and entrance portals will be constructed offsite, delivered to the site, craned into place by barge, and assembled onsite. The glazing materials, cladding materials, granite pavers, guardrails, and furnishings will be assembled onsite.

### *Dredging Requirements*

The side-loading vessels require a depth of 12.5 feet below mean lower low water (MLLW) on the approach and in the berthing area. Based on a bathymetric survey conducted in 2015, it is estimated that the new Gates F and G will require dredging to meet the required depths. The expected dredging volumes are presented in Table 2. These estimates are based on dredging the approach areas to 123.5 feet below MLLW, and 2 feet of overdredge depth, to account for inaccuracies in dredging practices. The dredging will take approximately 2 months.

TABLE 2—SUMMARY OF DREDGING REQUIREMENTS

| Dredging element | Summary |
|---|---|
| **Initial Dredging** | |
| Gate F | 0.78 acre/6,006 cubic yards |
| Gate G | 1.64 acres/14,473 cubic yards |
| Total for Gates F and G | 2.42 acres/20,479 cubic yards |
| Staging | On barges |
| Typical Equipment | Clamshell dredge on barge; disposal barge; survey boat |
| Duration | 2 months |
| **Maintenance Dredging** | |
| Gates F and G | 5,000 to 10,000 cubic yards |
| Frequency | Every 3 or 4 years |

Based on observed patterns of sediment accumulation in the Ferry Terminal area, significant sediment accumulation will not be expected, because regular maintenance dredging is not currently required to maintain operations at existing Gates B and E. However, some dredging will likely be required on a regular maintenance cycle beneath the floats at Gates F and G, due to their proximity to the Pier 14 breakwater. It is expected that maintenance dredging will be required every 3 to 4 years, and will require removal of approximately 5,000 to 10,000 cubic yards of material.

Dredging and disposal of dredged materials will be conducted in cooperation with the San Francisco Dredged Materials Management Office (DMMO), including development of a sampling plan, sediment characterization, a sediment removal plan, and disposal in accordance with the Long-Term Management Strategy for San Francisco Bay to ensure beneficial reuse, as appropriate. DMMO consultation is expected to begin in early 2016. Based on the results of the sediment analysis, the alternatives for placement of dredged materials will be evaluated, including disposal at the San Francisco Deep Ocean Disposal Site, disposal at an upland facility, or beneficial reuse. Selection of the disposal site will be reviewed and approved by the DMMO.

## Comments and Responses

We published a notice of receipt of WETA's application and proposed IHA in the **Federal Register** on May 25, 2016 (81 FR 33217). We received one comment, a letter from the Marine Mammal Commission concurring with NMFS's preliminary findings.

*Comment:* The Commission recommends the issuance of the IHA, subject to the inclusion of the proposed mitigation, monitoring, and reporting measures.

*Response:* We appreciate the Commission's concurrence with our findings and appreciate their input and support. We made minor changes to the monitoring requirements, including allowing only one observer if impact driving is the only method if installation used on one day; and allowing WETA to modify the zones from data from hydroacoustic monitoring, with NMFS concurrence, and if the zones are small enough, to only have one observer. NMFS believes these changes will still allow the mitigation and monitoring measures to effect the least practicable impact on marine mammal species or stocks and their habitat.

## Description of Marine Mammals in the Area of the Specified Activity

There are seven marine mammal species which may inhabit or may likely transit through the waters nearby the Ferry Terminal, and which are expected to potentially be taken by the specified activity. These include the Pacific harbor seal (*Phoca vitulina*), California sea lion (*Zalophus californianus*), Northern Elephant seal (*Mirounga angustirostris*), Northern fur seal (*Callorhinus ursinus*), harbor porpoise (*Phocoena phocoena*), gray whale (*Eschrichtius robustus*), and bottlenose dolphin (*Tursiops truncatus*). Multiple additional marine mammal species may occasionally enter the activity area in San Francisco Bay but would not be expected to occur in shallow nearshore waters of the action area. Guadalupe fur seals (*Arctocephalus townsendi*) generally do not occur in San Francisco Bay; however, there have been recent sightings of this species due to the El Niño event. Only single individuals of this species have occasionally been sighted inside San Francisco Bay, and their presence near the action area is considered unlikely. No takes are requested for this species, and mitigation measures such as a shutdown zone will be in effect for this species if observed approaching the Level B harassment zone. Although it is possible that a humpback whale (*Megaptera navaeangliae*) may enter San Francisco Bay and find its way into the project area during construction activities, their occurrence is unlikely. No takes are requested for this species, and mitigation measures such as a delay and shutdown procedure will be in effect for this species if observed approaching the Level B harassment zone. Table 3 lists the marine mammal species with expected potential for occurrence in the vicinity of the SF Ferry terminal during the project timeframe and summarizes key information regarding stock status and abundance. Taxonomically, we follow Committee on Taxonomy (2014). Please see NMFS' Stock Assessment Reports (SAR), available at *www.nmfs.noaa.gov/pr/sars*, for more detailed accounts of these stocks' status and abundance. Please also refer to NMFS' Web site (*www.nmfs.noaa.gov/pr/species/mammals*) for generalized species accounts. We provided additional information for marine mammals with potential for occurrence in the area of the specified activity in our **Federal Register** notice of proposed authorization (May 25, 2016; 81 FR 33217).

TABLE 3—MARINE MAMMALS POTENTIALLY PRESENT IN THE VICINITY OF SAN FRANCISCO FERRY TERMINAL

| Species | Stock | ESA/MMPA status; strategic (Y/N) [1] | Stock abundance (CV, $N_{min}$, most recent abundance survey) [2] | PBR [3] | Relative occurrence in Strait of Juan de Fuca; season of occurrence |
|---|---|---|---|---|---|
| **Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)** | | | | | |
| **Family Phocoenidae (porpoises)** | | | | | |
| Harbor porpoise | San Francisco-Russian River. | -; N | 9,886 (0.51; 6,625; 2011). | 66 | Common. |
| **Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)** | | | | | |
| **Family Delphinidae (dolphins)** | | | | | |
| Bottlenose dolphin [4] | California coastal | -; N | 323 (0.13; 290; 2005) | 2.4 | Rare. |
| **Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)** | | | | | |
| **Family Eschrichtiidae** | | | | | |
| Gray whale | Eastern N. Pacific | -; N | 20,990 (0.05; 20,125; 2011). | 624 | Rare. |
| **Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)** | | | | | |
| **Family Balaenopteridae** | | | | | |
| Humpback whale | California/Oregon/ Washington stock | E; S | 1,918 | 11 | Unlikely. |
| **Order Carnivora—Superfamily Pinnipedia** | | | | | |
| **Family Otariidae (eared seals and sea lions)** | | | | | |
| California sea lion | U.S. | -; N | 296,750 (n/a; 153,337; 2011). | 9,200 | Common. |
| Guadalupe fur seal [5] | Mexico to California | T; S | 7,408 (n/a; 3,028; 1993) | 91 | Unlikely. |
| Northern fur seal | California stock | -;N | 14,050 (n/a; 7,524; 2013). | 451 | Unlikely. |
| **Family Phocidae (earless seals)** | | | | | |
| Harbor seal | California | -; N | 30,968 (n/a; 27,348; 2012). | 1,641 | Common; Year-round resident. |
| Northern elephant seal | California breeding stock | -; N | 179,000 (n/a; 81,368; 2010). | 4,882 | Rare. |

[1] ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR (see footnote 3) or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] CV is coefficient of variation; $N_{min}$ is the minimum estimate of stock abundance. In some cases, CV is not applicable. For certain stocks, abundance estimates are actual counts of animals and there is no associated CV. The most recent abundance survey that is reflected in the abundance estimate is presented; there may be more recent surveys that have not yet been incorporated into the estimate.

[3] Potential biological removal, defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population size (OSP).

[4] Abundance estimates for these stocks are greater than eight years old and are therefore not considered current. PBR is considered undetermined for these stocks, as there is no current minimum abundance estimate for use in calculation. We nevertheless present the most recent abundance estimates and PBR values, as these represent the best available information for use in this document.

## Potential Effects of the Specified Activity on Marine Mammals and Their Habitat

Our **Federal Register** notice of proposed authorization (May 25, 2016; 81 FR 33217) provides a general background on sound relevant to the specified activity as well as a detailed description of marine mammal hearing and of the potential effects of these construction activities on marine mammals and their habitat.

## Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses.

Measurements from similar pile driving events were coupled with practical spreading loss to estimate zones of influence (ZOI; see Estimated Take by Incidental Harassment); these values were used to develop mitigation measures for pile driving and removal activities at the ferry terminal. The ZOIs effectively represent the mitigation zone that will be established around each pile to prevent Level A harassment to marine mammals, while providing estimates of the areas within which Level B harassment might occur. In addition to the specific measures described later in this section, WETA will conduct briefings between construction supervisors and crews, marine mammal monitoring team, and WETA staff prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

*Monitoring and Shutdown for Construction Activities*

The following measures will apply to WETA's mitigation through shutdown and disturbance zones:

*Shutdown Zone*—For all pile driving activities, WETA will establish a shutdown zone intended to contain the area in which SPLs equal or exceed the 180/190 dB rms acoustic injury criteria for cetaceans and pinnipeds, respectively. The purpose of a shutdown zone is to define an area within which shutdown of activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area), thus preventing injury of marine mammals (as described previously, serious injury or death are unlikely outcomes even in the absence of mitigation measures). Modeled radial distances for shutdown zones are shown in Table 4. However, a minimum shutdown zone of 10 m will be established during all pile driving activities, regardless of the estimated zone. Vibratory pile driving and removal activities are not predicted to produce sound exceeding the 180/190-dB Level A harassment threshold, but these precautionary measures are intended to prevent the already unlikely possibility of physical interaction with construction equipment and to further reduce any possibility of acoustic injury.

*Disturbance Zone*—Disturbance zones are the areas in which SPLs equal or exceed 160 and 120 dB rms (for impulse and continuous sound, respectively). Disturbance zones provide utility for monitoring conducted for mitigation purposes (*i.e.*, shutdown zone monitoring) by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring of disturbance zones enables observers to be aware of and communicate the presence of marine mammals in the project area but outside the shutdown zone and thus prepare for potential shutdowns of activity. However, the primary purpose of disturbance zone monitoring is for documenting instances of Level B harassment; disturbance zone monitoring is discussed in greater detail later (see Proposed Monitoring and Reporting). Nominal radial distances for disturbance zones are shown in Table 4. Given the size of the disturbance zone for vibratory pile driving, it is impossible to guarantee that all animals would be observed or to make comprehensive observations of fine-scale behavioral reactions to sound, and only a portion of the zone (*e.g.*, what may be reasonably observed by visual observers stationed within the turning basin) would be observed.

In order to document observed instances of harassment, monitors record all marine mammal observations, regardless of location. The observer's location, as well as the location of the pile being driven, is known from a GPS. The location of the animal is estimated as a distance from the observer, which is then compared to the location from the pile. It may then be estimated whether the animal was exposed to sound levels constituting incidental harassment on the basis of predicted distances to relevant thresholds in post-processing of observational and acoustic data, and a precise accounting of observed incidences of harassment created. This information may then be used to extrapolate observed takes to reach an approximate understanding of actual total takes.

*Monitoring Protocols*—Monitoring will be conducted before, during, and after pile driving and vibratory removal activities. In addition, observers shall record all instances of marine mammal occurrence, regardless of distance from activity, and shall document any behavioral reactions in concert with distance from piles being driven. Observations made outside the shutdown zone will not result in shutdown; that pile segment would be completed without cessation, unless the animal approaches or enters the shutdown zone, at which point all pile driving activities would be halted. Monitoring will take place from fifteen minutes prior to initiation through thirty minutes post-completion of pile driving and removal activities. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than thirty minutes. Please see the Monitoring Plan (*www.nmfs.noaa.gov/pr/permits/incidental/construction.htm*), developed by WETA in agreement with NMFS, for full details of the monitoring protocols.

The following additional measures apply to visual monitoring:

(1) Monitoring will be conducted by qualified observers, who will be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator. A minimum of two observers will be required for all pile driving/removal activities, unless only impact driving is to occur on that day, in which case only one observer will be required. This was modified from the proposed FR notice. It was determined that one MMO could adequately survey the impact driving zones. Qualified observers are typically trained biologists, with the following minimum qualifications:

- Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target;
- Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience);
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior; and
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

(2) Prior to the start of pile driving activity, the shutdown zone will be monitored for fifteen minutes to ensure that it is clear of marine mammals. Pile driving will only commence once observers have declared the shutdown zone clear of marine mammals; animals will be allowed to remain in the shutdown zone (*i.e.*, must leave of their own volition) and their behavior will be monitored and documented. The shutdown zone may only be declared clear, and pile driving started, when the entire shutdown zone is visible (*i.e.*, when not obscured by dark, rain, fog, *etc.*). In addition, if such conditions should arise during impact pile driving

that is already underway, the activity will be halted.

(3) If a marine mammal approaches or enters the shutdown zone during the course of pile driving operations, activity will be halted and delayed until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or fifteen minutes have passed without re-detection of small cetaceans and pinnipeds, and thirty minutes for gray whales. Monitoring will be conducted throughout the time required to drive a pile.

(4) Using delay and shut-down procedures, if a species for which authorization has not been granted (including but not limited to Guadalupe fur seals and humpback whales) or if a species for which authorization has been granted but the authorized takes are met, approaches or is observed within the Level B harassment zone, activities will shut down immediately and not restart until the animals have been confirmed to have left the area.

*Soft Start*

The use of a soft start procedure is believed to provide additional protection to marine mammals by warning or providing a chance to leave the area prior to the hammer operating at full capacity, and typically involves a requirement to initiate sound from the hammer at reduced energy followed by a waiting period. This procedure is repeated two additional times. It is difficult to specify the reduction in energy for any given hammer because of variation across drivers and, for impact hammers, the actual number of strikes at reduced energy will vary because operating the hammer at less than full power results in "bouncing" of the hammer as it strikes the pile, resulting in multiple "strikes." For impact driving, we require an initial set of three strikes from the impact hammer at reduced energy, followed by a thirty-second waiting period, then two subsequent three strike sets. Soft start will be required at the beginning of each day's impact pile driving work and at any time following a cessation of impact pile driving of thirty minutes or longer.

We have carefully evaluated WETA's proposed mitigation measures and considered their effectiveness in past implementation to determine whether they are likely to effect the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another: (1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals, (2) the proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and (3) the practicability of the measure for applicant implementation.

Any mitigation measure(s) we prescribe should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

(1) Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

(2) A reduction in the number (total number or number at biologically important time or location) of individual marine mammals exposed to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing takes by behavioral harassment only).

(3) A reduction in the number (total number or number at biologically important time or location) of times any individual marine mammal would be exposed to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing takes by behavioral harassment only).

(4) A reduction in the intensity of exposure to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing the severity of behavioral harassment only).

(5) Avoidance or minimization of adverse effects to marine mammal habitat, paying particular attention to the prey base, blockage or limitation of passage to or from biologically important areas, permanent destruction of habitat, or temporary disturbance of habitat during a biologically important time.

(6) For monitoring directly related to mitigation, an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of WETA's proposed measures, as well as any other potential measures that may be relevant to the specified activity, we have determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

## Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth "requirements pertaining to the monitoring and reporting of such taking." The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for incidental take authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area.

Any monitoring requirement we prescribe should improve our understanding of one or more of the following:

- Occurrence of marine mammal species in action area (*e.g.*, presence, abundance, distribution, density).
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.*, source characterization, propagation, ambient noise); (2) Affected species (*e.g.*, life history, dive patterns); (3) Co-occurrence of marine mammal species with the action; or (4) Biological or behavioral context of exposure (*e.g.*, age, calving or feeding areas).
- Individual responses to acute stressors, or impacts of chronic exposures (behavioral or physiological).
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of an individual; or (2) Population, species, or stock.
- Effects on marine mammal habitat and resultant impacts to marine mammals.
- Mitigation and monitoring effectiveness.

WETA's planned monitoring and reporting is also described in their Marine Mammal Monitoring Plan, on the Internet at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm*.

*Hydroacousting Monitoring*

Hydroacoustic monitoring will be conducted during a minimum of ten percent of all pile driving activities. The monitoring will be done in accordance with the methodology outlined in this Hydroacoustic Monitoring Plan (see Appendix A of WETA's application for more information on this plan, including the methodology, equipment, and reporting information). The monitoring will be conducted based on the following:

- Be based on the dual metric criteria (Popper *et al.*, 2006) and the accumulated sound exposure level (SEL);

- Establish field locations that will be used to document the extent of the area experiencing 187 decibels (dB) SEL accumulated;
- Establish the distance to the Marine Mammal Level A and Level B Safety and Harassment zones;
- Describe the methods necessary to continuously assess underwater noise on a real-time basis, including details on the number, location, distance and depth of hydrophones, and associated monitoring equipment;
- Provide a means of recording the time and number of pile strikes, the peak sound energy per strike, and interval between strikes;
- Provide provisions to provide all monitoring data to the CDFW and NMFS.

*Visual Marine Mammal Observations*

WETA will collect sighting data and behavioral responses to construction for marine mammal species observed in the region of activity during the period of activity. All observers (MMOs) will be trained in marine mammal identification and behaviors and are required to have no other construction-related tasks while conducting monitoring. A minimum of two MMOs will be required for all pile driving/removal activities, unless only impact driving is to occur on that day, in which case only one observer will be required. WETA will monitor the shutdown zone and disturbance zone before, during, and after pile driving, with observers located at the best practicable vantage points. Based on our requirements, WETA will implement the following procedures for pile driving and removal:

- MMOs will be located at the best vantage point(s) in order to properly see the entire shutdown zone and as much of the disturbance zone as possible.
- During all observation periods, observers will use binoculars and the naked eye to search continuously for marine mammals.
- If the shutdown zones are obscured by fog or poor lighting conditions, pile driving at that location will not be initiated until that zone is visible. Should such conditions arise while impact driving is underway, the activity will be halted.
- The shutdown and disturbance zones around the pile will be monitored for the presence of marine mammals before, during, and after any pile driving or removal activity.

Individuals implementing the monitoring protocol will assess its effectiveness using an adaptive approach. The monitoring biologists will use their best professional judgment throughout implementation and seek improvements to these methods when deemed appropriate. Any modifications to protocol will be coordinated between NMFS and WETA.

In addition, the MMO(s) will survey the potential Level A and nearby Level B harassment zones (areas within approximately 2,000 feet of the pile-driving area observable from the shore) on 2 separate days—no earlier than 7 days before the first day of construction—to establish baseline observations. Monitoring will be timed to occur during various tides (preferably low and high tides) during daylight hours from locations that are publicly accessible (*e.g.,* Pier 14 or the Ferry Plaza). The information collected from baseline monitoring will be used for comparison with results of monitoring during pile-driving activities.

*Data Collection*

We require that observers use approved data forms. Among other pieces of information, WETA will record detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any. In addition, WETA will attempt to distinguish between the number of individual animals taken and the number of incidences of take. We require that, at a minimum, the following information be collected on the sighting forms:

- Date and time that monitored activity begins or ends;
- Construction activities occurring during each observation period;
- Weather parameters (*e.g.,* percent cover, visibility);
- Water conditions (*e.g.,* sea state, tide state);
- Species, numbers, and, if possible, sex and age class of marine mammals;
- Description of any observable marine mammal behavior patterns, including bearing and direction of travel, and if possible, the correlation to SPLs;
- Distance from pile driving or removal activities to marine mammals and distance from the marine mammals to the observation point;
- Description of implementation of mitigation measures (*e.g.,* shutdown or delay);
- Locations of all marine mammal observations; and
- Other human activity in the area.

*Reporting*

A draft report will be submitted to NMFS within 90 days of the completion of marine mammal monitoring, or 60 days prior to the requested date of issuance of any future IHA for projects at the same location, whichever comes first. The report will include marine mammal observations pre-activity, during-activity, and post-activity during pile driving and removal days, and will also provide descriptions of any behavioral responses to construction activities by marine mammals and a complete description of all mitigation shutdowns and the results of those actions and an extrapolated total take estimate based on the number of marine mammals observed during the course of construction. A final report must be submitted within thirty days following resolution of comments on the draft report.

## Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines "harassment" as: ". . . any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment]."

All anticipated takes would be by Level B harassment resulting from vibratory and impact pile driving and removal and involving temporary changes in behavior. The planned mitigation and monitoring measures are expected to minimize the possibility of injurious or lethal takes such that take by Level A harassment, serious injury, or mortality is considered discountable. However, it is unlikely that injurious or lethal takes would occur even in the absence of the planned mitigation and monitoring measures.

Given the many uncertainties in predicting the quantity and types of impacts of sound on marine mammals, it is common practice to estimate how many animals are likely to be present within a particular distance of a given activity, or exposed to a particular level of sound. In practice, depending on the amount of information available to characterize daily and seasonal movement and distribution of affected marine mammals, it can be difficult to distinguish between the number of individuals harassed and the instances of harassment and, when duration of the activity is considered, it can result in a take estimate that overestimates the number of individuals harassed. In particular, for stationary activities, it is more likely that some smaller number of individuals may accrue a number of incidences of harassment per individual than for each incidence to accrue to a new individual, especially if those individuals display some degree of residency or site fidelity and the impetus to use the site (*e.g.,* because of foraging opportunities) is stronger than the deterrence presented by the harassing activity.

The area where the ferry terminal is located is not considered important habitat for marine mammals, as it is a highly industrial area with high levels of vessel traffic and background noise. While there are harbor seal haul outs within two miles of the construction activity at Yerba Buena Island, and a California sea lion haul out approximately 1.5 miles away at pier 39, behavioral disturbances that could result from anthropogenic sound associated with these activities are expected to affect only a relatively small number of individual marine mammals that may venture near the ferry terminal, although those effects could be recurring over the life of the project if the same individuals remain in the project vicinity. WETA has requested authorization for the incidental taking of small numbers of harbor seals, Northern elephant seals, Norther fur seals, California sea lions, harbor porpoise, bottlenose dolphin, and gray whales near the San Francisco Ferry Terminal that may result from construction activities associated with the project described previously in this document.

In order to estimate the potential instances of take that may occur incidental to the specified activity, we must first estimate the extent of the sound field that may be produced by the activity and then consider in combination with information about marine mammal density or abundance in the project area. We described applicable sound thresholds for determining effects to marine mammals before describing the information used in estimating the sound fields, the available marine mammal density or abundance information, and the method of estimating potential incidents of take in detail in our **Federal Register** notice of proposed authorization (May 25, 2016; 81 FR 33217). All calculated distances to and the total area encompassed by the marine mammal sound thresholds are provided in Table 4.

All calculated distances to, and the total area encompassed by, the marine mammal sound thresholds are provided in Table 4. No physiological responses are expected from pile-driving operations occurring during project construction. Vibratory pile extraction and driving does not generate high-peak sound-pressure levels commonly associated with physiological damage. Impact driving can produce noise levels in excess of the Level A thresholds, but only within 50 feet (15 meters) of impact-driving of 36-inch piles. The shutdown zone will be equivalent to the area over which Level A harassment may occur, including the 180 dB re 1 μPa (cetaceans) and 190 dB re 1 μPa (pinnipeds) isopleths (Table 4); however, a minimum 10 m shutdown zone will be applied to the these zones as a precautionary measure intended to prevent the already unlikely possibility of physical interaction with construction equipment and to further reduce any possibility of acoustic injury. The disturbance zones will be equivalent to the area over which Level B harassment may occur, including160 dB re 1 μPa (impact pile driving) and 120 dB re 1 μPa (vibratory pile driving) isopleths (Table 4). These zones may be modified based on results from the hydroacoustic monitoring (see Appendix A of WETA's application). This was a change from the proposed FR notice. It was determined that hydroacoustic monitoring will give more accurate information than modeled results, and therefore, should be used as the harassment zones. Any changes will need to be reviewed and approved by NMFS.

TABLE 4—DISTANCES TO RELEVANT UNDERWATER SOUND THRESHOLDS AND AREAS OF ENSONIFICATION

| Project element requiring pile installation | Source levels at 10 meters | Distance to threshold (m) | | | Area for Level B threshold (km²) |
|---|---|---|---|---|---|
| | RMS | 190 dB RMS[1] | 180 dB RMS[1] | 160/120 dB RMS[2] | |
| **South Basin Pile Demolition and Removal** | | | | | |
| 18-Inch Wood Piles—Vibratory Driver | *150 | 0 | <1 | *1,600 | *2.30 |
| 18-Inch Concrete Piles—Vibratory Driver | 150 | 0 | <1 | 1,000 | 1.27 |
| 36-Inch Steel Piles—Vibratory Driver | [3]169 | <1 | 2 | 18,478 | 86.52 |
| **Embarcadero Plaza and East Bayside Promenade and Gates E, F, and G Dolphin and Guide Piles** | | | | | |
| 36-Inch Steel Piles—Vibratory Driver | 169 | <1 | 2 | 18,478 | 86.52 |
| 36-Inch Steel Piles—Impact Driver (BCA)3 | [3]183 | 4 | 16 | 341 | 0.18 |
| 24-Inch Steel Piles—Vibratory Driver | 163 | 0 | 1 | 7,356 | 38.07 |
| 24-Inch Steel Piles—Impact Driver (BCA) | [3]180 | 2 | 10 | 215 | 0.09 |
| **Fender Piles** | | | | | |
| 14-Inch Wood Piles- Vibratory Driver | 142 | 0 | 0 | 293 | 0.14 |
| 14-Inch Wood Piles—Impact Driver | 158 | 0 | 0 | 7 | 0 |

[1] For underwater noise, the Level A harassment threshold for cetaceans is 180 dB and 190 dB for pinnipeds.

[2] For underwater noise, the Level B harassment (disturbance) threshold is 160 dB for impulsive noise and typical ambient levels (120 dB) for continuous noise.

[3] The source levels used for vibratory driving of 36 in steel piles, and impact driving with a bubble curtain of 24 in and 36 in steel piles were incorrectly entered into this table in the proposed FR notice. The correct values are shown above.

* This SL is at 16m and was stated as 10m in the proposed FR notice. Because of this revision, the 120 dB distance and the area were updated.

BCA Bubble curtain attenuation will be used during impact driving of steel piles.
dB decibels.
RMS root mean square.

### *Marine Mammal Densities*

At-sea densities for marine mammal species have been determined for harbor seals and California sea lions in San Francisco Bay; all other estimates here are determined by using observational data taken during marine mammal monitoring associated with the Richmond-San Rafael Bridge retrofit project, the San Francisco-Oakland Bay Bridge (SFOBB), which has been ongoing for the past 15 years, and anecdotal observational reports from local entities. It is not currently possible to identify all observed individuals to stock.

### *Description of Take Calculation*

All estimates are conservative and include the following assumptions:

- All pilings installed at each site would have an underwater noise disturbance equal to the piling that causes the greatest noise disturbance (*i.e.,* the piling farthest from shore) installed with the method that has the largest ZOI. The largest underwater disturbance ZOI would be produced by vibratory driving steel piles. The ZOIs for each threshold are not spherical and are truncated by land masses on either side of the channel which would dissipate sound pressure waves.
- Exposures were based on estimated total of 106 work days. Each activity ranges in amount of days needed to be completed (Table 1). Note that impact driving is likely to occur only on days when vibratory driving occurs.
- In absence of site specific underwater acoustic propagation modeling, the practical spreading loss model was used to determine the ZOI.
- All marine mammal individuals potentially available are assumed to be present within the relevant area, and thus incidentally taken;
- An individual can only be taken once during a 24-h period; and,
- Exposures to sound levels at or above the relevant thresholds equate to take, as defined by the MMPA.

The estimation of marine mammal takes typically uses the following calculation:

For harbor seals and California sea lions: Level B exposure estimate = D (density) * Area of ensonification) * Number of days of noise generating activities.

For all other marine mammal species: Level B exposure estimate = N (number of animals) in the area * Number of days of noise generating activities.

To account for the increase in California sea lion density due to El Niño, the daily take estimated from the observed density has been increased by a factor of 10 for each day that pile driving or removal occurs.

There are a number of reasons why estimates of potential instances of take may be overestimates of the number of individuals taken, assuming that available density or abundance estimates and estimated ZOI areas are accurate. We assume, in the absence of information supporting a more refined conclusion, that the output of the calculation represents the number of individuals that may be taken by the specified activity. In fact, in the context of stationary activities such as pile driving and in areas where resident animals may be present, this number represents the number of instances of take that may accrue to a smaller number of individuals, with some number of animals being exposed more than once per individual. While pile driving and removal can occur any day throughout the in-water work window, and the analysis is conducted on a per day basis, only a fraction of that time (typically a matter of hours on any given day) is actually spent pile driving/removal. The potential effectiveness of mitigation measures in reducing the number of takes is typically not quantified in the take estimation process. For these reasons, these take estimates may be conservative, especially if each take is considered a separate individual animal, and especially for pinnipeds.

The quantitative exercise described above indicates that no instances of Level A harassment would be expected, independent of the implementation of required mitigation measures. See Table 5 for total estimated instances of take.

TABLE 5—CALCULATIONS FOR INCIDENTAL TAKE ESTIMATION

| Pile type | Pile-driver type | Number of driving days | Estimated take by level B harassment (take per day/total) | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | | Harbor seal | CA sea lion [1] | Northern elephant seal [2] | Harbor porpoise [2] | Gray whale [2] | Northern fur seal [2] | Bottlenose dolphin [2] |
| Wood/concrete pile removal | Vibratory | 30 | 2/60 | 10/300 | NA | NA | NA | NA | NA |
| 36-inch dolphin pile removal | Vibratory | 1 | 66/66 | 110/110 | NA | NA | NA | NA | NA |
| Embarcadero Plaza 36-inch steel piles | Vibratory [3] | 65 | 66/4,290 | 110/7,150 | NA | NA | NA | NA | NA |
| 14-inch wood pile | Vibratory [3] | 10 | 1/10 | 10/100 | NA | NA | NA | NA | NA |
| Project Total (2016) [4] | | 106 | 4,426 | 7,660 | 21 | 9 | 2 | 10 | 30 |

[1] To account for potential El Niño conditions, take calculated from at-sea densities for California sea lion has been increased by a factor of 10.

[2] Take is not calculated by activity type for these species with a low potential to occur, only a yearly total is given.

[3] Piles of this type may also be installed with an impact hammer, which would reduce the estimated take.

[4] This total assumes the more conservative use of 36-inch steel piles used for the Embarcadero Plaza; however, an alternative would be to use 24-in steel piles, which would result in smaller take numbers. Take numbers have been updated from the proposed FR notice based on public comment, and are described in the *Description of Marine Mammals in the Area of the Specified Activity* section.

### *Description of Marine Mammals in the Area of the Specified Activity*

#### Harbor Seals

Monitoring of marine mammals in the vicinity of the SFOBB has been ongoing for 15 years; from those data, Caltrans has produced at-sea density estimates for Pacific harbor seal of 0.77 animals per square kilometer for the fall season (Caltrans, 2015b). Using this density, the potential average daily take for the areas over which the Level B harassment thresholds may be exceeded are estimated in Table 6.

TABLE 6—TAKE CALCULATION FOR HARBOR SEAL

| Activity | Pile type | Density | Area (km²) | Take estimate |
|---|---|---|---|---|
| Vibratory driving and extraction | 36-in steel pile [1] | 0.77 animal/km² | 86.53 | 4,290; 66 |

TABLE 6—TAKE CALCULATION FOR HARBOR SEAL—Continued

| Activity | Pile type | Density | Area (km$^2$) | Take estimate |
|---|---|---|---|---|
| Vibratory extraction | Wood and concrete piles | 0.77 animal/km$^2$ | 2.30 | 60 |
| Vibratory driving | Wood piles | 0.77 animal/km$^2$ | 0.13 | 10 |

[1] The more conservative use of 36-inch steel piles for the Embarcadero Plaza was used here; however, an alternative would be to use 24-in steel piles, which would result in smaller take numbers (780 vs. 1,690).

A total of 1,756 harbor seal takes are estimated for 2016 (Table 6). This take number is larger than the take number in the proposed IHA. This change was based on public comment and take was increased based on using fall densities instead of summer densities, to be more representative of the season in which construction will occur and may affect harbor seals.

### *California Sea Lion*

Monitoring of marine mammals in the vicinity of the SFOBB has been ongoing for 15 years; from those data, Caltrans has produced at-sea density estimates for California sea lion of 0.31 animals per square mile (0.12 animal per square kilometer) for the late summer to fall season (Caltrans, 2015b). Using this density, the potential average daily take for the areas over which the Level B harassment thresholds may be exceeded is estimated in Table 7.

TABLE 7—TAKE CALCULATION FOR CALIFORNIA SEA LION

| Activity | Pile type | Density | Area (km$^2$) | Take estimate |
|---|---|---|---|---|
| Vibratory driving and extraction | 36-in steel pile [1] | 0.31 (0.12 animal/km$^2$) | 86.53 | *7,150; *110 |
| Vibratory extraction | Wood and concrete piles | 0.31 (0.12 animal/km$^2$) | 2.3 | *300 |
| Vibratory driving | Wood piles | 0.31 (0.12 animal/km$^2$) | 0.13 | *100 |

* All California sea lion estimates were multiplied by 10 to account for the increased occurrence of this species due to El Niño.

[1] The more conservative use of 36-inch steel piles for the Embarcadero Plaza was used here; however, an alternative would be to use 24-in steel piles, which would result in smaller take numbers (3,250 vs 7,150).

All California sea lion estimates were multiplied by 10 to account for the increased occurrence of this species due to El Niño. A total of 7,660 California sea lion takes is estimated for 2016 (Table 5).

### *Northern Elephant Seal*

Monitoring of marine mammals in the vicinity of the SFOBB has been ongoing for 15 years; from those data, Caltrans has produced an estimated at-sea density for northern elephant seal of 0.16 animal per square mile (0.03 animal per square kilometer) (Caltrans, 2015b). Most sightings of northern elephant seal in San Francisco Bay occur in spring or early summer, and are less likely to occur during the periods of in-water work for this project (June/July through November). As a result, densities during pile driving and removal for the proposed action would be much lower. Therefore, we estimate that it is possible that a lone northern elephant seal may enter the Level B harassment area once per week during pile driving or removal, for a total of 21 takes in 2016 (Table 5). This take number is larger than the take number in the proposed IHA. This change was based on public comment and take was increased from 14 to 21 to be more representative of the number of weeks during construction activities over 106 days (21 weeks vs 14 weeks) if one individual was in the Level B harassment area once per week.

### *Northern Fur Seal*

During the breeding season, the majority of the worldwide population is found on the Pribilof Islands in the southern Bering Sea, with the remaining animals spread throughout the North Pacific Ocean. On the coast of California, small breeding colonies are present at San Miguel Island off southern California, and the Farallon Islands off central California (Caretta *et al* 2014). Northern fur seal are a pelagic species and are rarely seen near the shore away from breeding areas. Juveniles of this species occasionally strand in San Francisco Bay, particularly during El Niño events, for example, during the 2006 El Niño event, 33 fur seals were admitted to the Marine Mammal Center (TMMC, 2016). Some of these stranded animals were collected from shorelines in San Francisco Bay. Due to the recent El Niño event, Northern fur seals are being observed in San Francisco bay more frequently, as well as strandings all along the California coast and inside San Francisco Bay; a trend that is expected to continue this summer through winter (TMMC, personal communication). Because sightings are normally rare; instances recently have been observed, but are not common, and based on estimates from local observations (TMMC, personal communication), it is estimated that ten Northern fur seals will be taken in 2016 (Table 5).

### *Harbor Porpoise*

In the last six decades, harbor porpoises were observed outside of San Francisco Bay. The few harbor porpoises that entered were not sighted past central Bay close to the Golden Gate Bridge. In recent years, however, there have been increasingly common observations of harbor porpoises in central, north, and south San Francisco Bay. Porpoise activity inside San Francisco Bay is thought to be related to foraging and mating behaviors (Keener, 2011; Duffy, 2015). According to observations by the Golden Gate Cetacean Research team as part of their multi-year assessment, over 100 porpoises may be seen at one time entering San Francisco Bay; and over 600 individual animals are documented in a photo-ID database. However, sightings are concentrated in the vicinity of the Golden Gate Bridge and Angel Island, north of the project area, with lesser numbers sighted south of Alcatraz and west of Treasure Island (Keener 2011). Harbor porpoise generally travel individually or in small groups of two or three (Sekiguchi, 1995).

Monitoring of marine mammals in the vicinity of the SFOBB has been ongoing for 15 years; from those data, Caltrans has produced an estimated at-sea density for harbor porpoise of 0.01 animal per square mile (0.004 animal per square kilometer) (Caltrans, 2015b). However, this estimate would be an overestimate of what would actually be seen in the project area. In order to estimate a more realistic take number, we assume it is possible that a small group of individuals (three harbor porpoises) may enter the Level B harassment area on as many as three days of pile driving or removal, for a total of nine harbor porpoise takes per year (Table 5). This take number is larger than the take number in the proposed IHA. This change was based on public comment and take was increased by increasing the number of potential days harbor porpoise may be near the construction activity and incidentally harassed from two to three days to be conservative.

*Gray Whale*

Historically, gray whales were not common in San Francisco Bay. The Oceanic Society has tracked gray whale sightings since they began returning to San Francisco Bay regularly in the late 1990s. The Oceanic Society data show that all age classes of gray whales are entering San Francisco Bay, and that they enter as singles or in groups of up to five individuals. However, the data do not distinguish between sightings of gray whales and number of individual whales (Winning, 2008). Caltrans Richmond-San Rafael Bridge project monitors recorded 12 living and two dead gray whales in the surveys performed in 2012. All sightings were in either the central or north Bay; and all but two sightings occurred during the months of April and May. One gray whale was sighted in June, and one in October (the specific years were unreported). It is estimated that two to six gray whales enter San Francisco Bay in any given year. Because construction activities are only occurring during a maximum of 106 days in 2016, it is estimated that two gray whales may potentially enter the area during the construction period, for a total of 2 gray whale takes in 2016 (Table 5).

*Bottlenose Dolphin*

Since the 1982–83 El Niño, which increased water temperatures off California, bottlenose dolphins have been consistently sighted along the central California coast (Caretta *et al.* 2008). The northern limit of their regular range is currently the Pacific coast off San Francisco and Marin County, and they occasionally enter San Francisco Bay, sometimes foraging for fish in Fort Point Cove, just east of the Golden Gate Bridge. In the summer of 2015, a lone bottlenose dolphin was seen swimming in the Oyster Point area of South San Francisco (GGCR, 2016). Members of this stock are transient and make movements up and down the coast, and into some estuaries, throughout the year. Bottlenose dolphins are being observed in San Francisco bay more frequently in recent years (TMMC, personal communication). Groups with an average group size of five animals enter the bay and occur near Yerba Buena Island once per week for a two week stint and then depart the bay (TMMC, personal communication). Assuming groups of five individuals may enter San Francisco Bay approximately three times during the construction activities, we estimate 30 takes of bottlenose dolphins for 2016 (Table 5).

## Analyses and Preliminary Determinations

*Negligible Impact Analysis*

NMFS has defined "negligible impact" in 50 CFR 216.103 as ". . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival." A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of Level B harassment takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be "taken" through behavioral harassment, we consider other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, and effects on habitat.

Pile driving and removal activities associated with the ferry terminal construction project, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment (behavioral disturbance) only, from underwater sounds generated from pile driving and removal. Potential takes could occur if individuals of these species are present in the ensonified zone when pile driving and removal occurs.

No injury, serious injury, or mortality is anticipated given the nature of the activities and measures designed to minimize the possibility of injury to marine mammals. The potential for these outcomes is minimized through the construction method and the implementation of the planned mitigation measures. Specifically, vibratory hammers will be the primary method of installation (impact driving is included only as a contingency), and this activity does not have the potential to cause injury to marine mammals due to the relatively low source levels produced (less than 180 dB) and the lack of potentially injurious source characteristics. Impact pile driving produces short, sharp pulses with higher peak levels and much sharper rise time to reach those peaks. If impact driving is necessary, implementation of soft start and shutdown zones significantly reduces any possibility of injury. Given sufficient "notice" through use of soft start (for impact driving), marine mammals are expected to move away from a sound source that is annoying prior to it becoming potentially injurious. WETA will also employ the use of 12-inch-thick wood cushion block on impact hammers, and use a bubble curtain as sound attenuation devices. Environmental conditions in San Francisco Ferry Terminal mean that marine mammal detection ability by trained observers is high, enabling a high rate of success in implementation of shutdowns to avoid injury.

WETA's proposed activities are localized; the entire project area is limited to the San Francisco ferry terminal area and its immediate surroundings. These localized noise exposures may cause short-term behavioral modifications in harbor seals, Northern fur seals, Northern elephant seals, California sea lions, harbor porpoises, bottlenose dolphins, and gray whales. Moreover, the proposed mitigation and monitoring measures are expected to reduce the likelihood of injury and more severe behavior exposures. Additionally, no important feeding and/or reproductive areas for marine mammals are known to be within the ensonified area during the construction time frame.

The project also is not expected to have significant adverse effects on affected marine mammals' habitat. The project activities would not modify existing marine mammal habitat for a significant amount of time. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the short duration of the activities and the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.*, Thorson and Reyff, 2006; Lerma, 2014). Most likely, individuals will simply move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. Repeated exposures of individuals to levels of sound that may cause Level B harassment are unlikely to result in hearing impairment or to significantly disrupt foraging behavior due to the small ensonification area and relatively short duration of the project. Thus, even repeated Level B harassment of some small subset of the overall stock is unlikely to result in any significant realized decrease in fitness for the affected individuals, and thus would not result in any adverse impact to the stock as a whole.

In summary, this negligible impact analysis is founded on the following factors: (1) The possibility of injury, serious injury, or mortality may reasonably be considered discountable; (2) the anticipated instances of Level B harassment consist of, at worst, temporary modifications in behavior; (3) the presumed efficacy of the planned mitigation measures in reducing the effects of the specified activity to the level of least practicable impact, and (4) the lack of important areas. In addition, these stocks are not listed under the ESA. In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the potential effects of the specified activity will have only short-term effects on individuals. The specified activity is not reasonably expected to and is not reasonably likely to adversely affect the marine mammal species or stocks through effects on annual rates of recruitment or survival, and will therefore not result in population-level impacts.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the planned monitoring and mitigation measures, we find that the total marine mammal take from WETA's ferry terminal construction activities will have a negligible impact on the affected marine mammal species or stocks.

### *Small Numbers Analysis*

Table 8 details the number of instances that animals could be exposed to received noise levels that could cause Level B behavioral harassment for the proposed work at the ferry terminal project site relative to the total stock abundance. The numbers of animals authorized to be taken for all species would be considered small relative to the relevant stocks or populations even if each estimated instance of take occurred to a new individual—an extremely unlikely scenario. The total percent of the population (if each instance was a separate individual) for which take is requested is approximately 14 percent for harbor seals, approximately nine percent for bottlenose dolphins, less than three percent for California sea lions, and less than one percent for all other species (Table 8). For pinnipeds, especially harbor seals occurring in the vicinity of the ferry terminal, there will almost certainly be some overlap in individuals present day-to-day, and the number of individuals taken is expected to be notably lower. We preliminarily find that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

TABLE 8—ESTIMATED NUMBERS AND PERCENTAGE OF STOCK THAT MAY BE EXPOSED TO LEVEL B HARASSMENT

| Species | Proposed authorized takes | Stock(s) abundance estimate [1] | Percentage of total stock (%) [2] |
|---|---|---|---|
| Harbor Seal (*Phoca vitulina*)—*California stock* | 4,426 | 30,968 | 14.3 |
| California sea lion (*Zalophus californianus*)—*U.S. Stock* | 7,660 | 296,750 | 2.6 |
| Northern elephant seal (*Mirounga anustirostris*)—*California breeding stock* | 21 | 179,000 | 0.01 |
| Northern fur seal (*Callorhinus ursinus*)—*California stock* | 10 | 14,050 | 0.07 |
| Harbor Porpoise (*Phocoena phocoena*)—*San Francisco-Russian River Stock* | 9 | 9,886 | 0.09 |
| Gray whale (*Eschrichtius robustus*)—*Eastern North Pacific stock* | 2 | 20,990 | 0.01 |
| Bottlenose dolphin (*Tursiops truncatus*)—*California coastal stock* | 30 | 323 | 9.3 |

[1] All stock abundance estimates presented here are from the draft 2015 Pacific Stock Assessment Report.

[2] Percentage of total stock has been updated from the proposed FR notice for most species. Some percentages changed based on the new take calculations (harbor seal, Northern elephant seal, harbor porpoise), while others (Nothern fur seal, gray whale) were entered incorrectly in the proposed draft.

## Impact on Availability of Affected Species for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action. Therefore, we have determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

## Endangered Species Act (ESA)

No marine mammal species listed under the ESA are expected to be affected by these activities. Therefore, we have determined that section 7 consultation under the ESA is not required.

## National Environmental Policy Act (NEPA)

NMFS conducted an analysis, pursuant to National Environmental Policy Act (NEPA), to determine whether or not this proposed activity may have a significant effect on the human environment. NMFS determined that these activities will not have a significant effect on the human environment and published a Finding of No Significant Impact.

## Proposed Authorization

As a result of these determinations, we have issued an IHA to WETA to conduct the described construction activities for the Downtown San Francisco Ferry Terminal Expansion Project, South Basin Improvements Project, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

**Donna S. Wieting,**

*Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2016–15875 Filed 7–5–16; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* National Oceanic and Atmospheric Administration (NOAA).

*Title:* Fishery Observer Retention Survey.

*OMB Control Number:* 0648–xxxx.

*Form Number(s):* None.

*Type of Request:* Regular (request for a new information collection).

*Number of Respondents:* 785.

*Average Hours per Response:* 20 minutes.

*Burden Hours:* 262.

*Needs and Uses:* This request is for a new information collection.

NOAA Fisheries utilizes observers to collect information on catch, bycatch, fishing efforts, biological characteristics, interactions with protected species, and socioeconomic information from United States (U.S.) commercial fishing and processing vessels. More information on the observer population is needed to support the Agency's conservation and management goals, to strengthen and improve fishery management decision-making, and to satisfy legal mandates under the Reauthorization of the *Magnuson-Stevens Fishery Conservation and Management Act* (MSA), the *Regulatory Flexibility Act* (RFA), the *Endangered Species Act,* and the *National Environmental Policy Act* (NEPA), *Executive Order 12866* (EO 12866), and other pertinent statutes.

The National Observer Program (NOP) is conducting a survey of fishery observers in order to investigate incentives and disincentives for remaining an observer and to identify their subsequent career choices. The data will be used by the NOP and regional observer programs to improve observer recruitment and retention rates. The survey results will be used by regional program managers to evaluate current observer provider contract requirements to increase observer retention. With a greater understanding of these data observer retention may increase as a result of improved recruitment for observers. Improved retention of qualified and experienced observers is expected to reduce training efforts and costs, and improve data quality. Observers are often the only independent data collection source for federal agency and scientists to collect at-sea data and are crucial in fishery management.

*Affected Public:* Individuals or households.

*Frequency:* One time.

*Respondent's Obligation:* Voluntary.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: June 29, 2016.

**Sarah Brabson,**

*NOAA PRA Clearance Officer.*

[FR Doc. 2016–15877 Filed 7–5–16; 8:45 am]

BILLING CODE 3510–22–P

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* National Oceanic and Atmospheric Administration (NOAA).

*Title:* NOAA Coastal Ocean Program Grants Proposal Application Package.

*OMB Control Number:* 0648–0384.

*Form Number(s):* None.

*Type of Request:* Regular (revision and extension of a currently approved information collection).

*Number of Respondents:* 300.

*Average Hours per Response:* 30 minutes each for a project summary, key contacts and current and pending federal support; 5 hours for a semi-annual report; 5 hours for an annual report and 10 hours for a final report.

*Burden Hours:* 1,050.

*Needs and Uses:* This request is for a revision and extension of a currently approved information collection. The National Oceanic and Atmospheric Administration's Coastal Ocean Program (COP) provides direct financial assistance through grants and cooperative agreements for research supporting the management of coastal ecosystems. The statutory authority for COP is Public Law 102–567 Section 201 (Coastal Ocean Program). In addition to standard government application requirements, applicants for financial assistance are required to submit a project summary form, current and pending form and a key contacts form. Recipients are required to file annual progress reports and a project final report using COP formats. All of these requirements are needed for better evaluation of proposals and monitoring of awards.

This revision is the addition of the NOAA RESTORE Act Science Program. This program provides direct financial assistance through grants and cooperative agreements for research, observation, and monitoring to support, to the maximum extent practicable, the long-term sustainability of the ecosystem, fish stocks, fish habitat, and the recreational, commercial, and charter-fishing industry in the Gulf of Mexico. NOAA was authorized to establish and administer the Program, in consultation with the U.S. Fish and Wildlife Service, by the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies (RESTORE) of the Gulf States Act of 2012 (Pub. L. 112–141, Section 1604). Identified in the RESTORE Act as the Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology Program, the Program is commonly known as the NOAA RESTORE Act Science Program. The NOAA RESTORE Act Science Program will use the standard government application forms for financial assistance as well as the COP project summary form, current and pending form and a key contacts form. Recipients are required to file semi-annual progress reports and a project final report using a revised COP format. These additional forms are necessary for consistency. The main purpose of this information collection is to enable the NOAA RESTORE Act Science Program to provide summaries of each proposed project, the key applicant contact information and their current and pending Federal funding. The information gathered will enable the NOAA RESTORE Act Science Program to properly and quickly evaluate proposals in a collaborative environment with its partner agencies.

*Affected Public:* Non-profit institutions; State, local, or tribal government; business or other for-profit organizations.

*Frequency:* Annually, semi-annually and on occasion.

*Respondent's Obligation:* Required to obtain or retain benefits.

This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: June 29, 2016.

**Sarah Brabson,**

*NOAA PRA Clearance Officer.*

[FR Doc. 2016–15869 Filed 7–5–16; 8:45 am]

**BILLING CODE 3510–JS–P**

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

**RIN 0648–XE201**

# Deepwater Horizon Oil Spill; Notice of Intent To Prepare an Environmental Impact Statement and Conduct Restoration Planning To Provide and Enhance Recreational Use in Alabama, and To Conduct Scoping

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of Intent to prepare a restoration plan (RP) and environmental impact statement (EIS), and to conduct scoping.

**SUMMARY:** The Federal and state natural resource trustees for the Alabama Trustee Implementation Group for the *Deepwater Horizon* (DWH) oil spill (Alabama TIG) intend to prepare an EIS under the National Environmental Policy Act (NEPA) to evaluate the environmental consequences of a range of restoration projects that the Alabama TIG will propose in an RP developed pursuant to the Oil Pollution Act (OPA) to compensate the public for lost recreational use opportunities in Alabama caused by the DWH oil spill in the Gulf of Mexico. Restoration planning to compensate the public for lost recreational opportunities in Alabama is expected to be phased. This initial restoration planning activity will occur during the 2016 planning year.

This restoration planning activity is occurring, in part, in accordance with the February 16, 2016, decision in *Gulf Restoration Network* v. *Jewell,* Case 1:15–cv–00191–CB–C (S.D. Ala.), in which the court enjoined the use of $58.5 million in DWH early restoration funds pending additional analysis under NEPA and OPA. This restoration planning activity fulfills the Federal and state natural resources trustees' responsibilities under this court order while looking more broadly at the potential to provide restoration for lost recreational use within Alabama. Accordingly, this initial recreational use restoration planning activity may develop restoration projects to compensate for the full remaining allocated amount of Alabama's recreational use injury caused by the DWH oil spill (approximately $83.5 million), or for some portion thereof.

This restoration planning activity is proceeding in accordance with the *Deepwater Horizon* Oil Spill: Final Programmatic Damage Assessment and Restoration Plan (PDARP) and Final Programmatic Environmental Impact Statement (PEIS). Information on the Restoration Type: Provide and Enhance Recreational Opportunities, as well as the OPA criteria against which project ideas are being evaluated, can be found in the PDARP/PEIS (*http://www.gulfspillrestoration.noaa.gov/2016/04/trustees-settle-with-bp-for-natural-resource-injuries-to-the-gulf-of-mexico/*) and in the Overview of the PDARP/PEIS (*http://www.gulfspillrestoration.noaa.gov/2016/04/trustees-settle-with-bp-for-natural-resource-injuries-to-the-gulf-of-mexico/*).

The Alabama TIG would like to hear your project ideas for addressing lost recreational use in Alabama and encourages you to submit restoration project ideas in response to this notice (see **ADDRESSES** for instructions). If you have submitted project ideas in the past, we will consider those projects along with additional ideas submitted at this time.

The Trustees also seek public involvement in the scoping process and development of the recreational use RP/EIS. This notice explains the scoping process the Alabama TIG will use to gather input from the public. In addition to restoration project ideas, the Alabama TIG invites public comments regarding the scope, content, and any significant issues it should consider in the RP/EIS. Comments may be submitted at any time during the 30-day public scoping period via mail or the internet.

**DATES:** Public scoping comments and project ideas must be received by August 5, 2016.

**ADDRESSES:** *Submitting Project Ideas:* You may submit project ideas for addressing lost recreational use in Alabama at the following addresses:

Trustee Council Web site: *http://www.gulfspillrestoration.noaa.gov/restoration/give-us-your-ideas/suggest-a-restoration-project/*

Alabama Coastal Restoration Web site: *http://www.alabamacoastalrestoration.org/ProjectSubmit.aspx*

*Submitting Scoping Comments:* You may submit scoping comments on the EIS by any of the following methods:

- *Via the Web: http://www.gulfspillrestoration.noaa.gov.*
- *U.S. Mail:* NOAA Gulf of Mexico Disaster Response Center; attn: Alabama Recreational Use Restoration Plan; 7344 Zeigler Blvd.; Mobile, AL 36608.

All written scoping comments must be received by the close of the scoping period to be considered.

**FOR FURTHER INFORMATION CONTACT:**

- NOAA—Dan Van Nostrand, *dan.van-nostrand@noaa.gov.*
- AL—Amy Hunter, *amy.hunter@dcnr.alabama.gov.*

**SUPPLEMENTARY INFORMATION:**

## Introduction

On April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon,* which was being used to drill a well for BP Exploration and Production Inc. (BP), in the Macondo prospect (Mississippi Canyon 252–MC252), exploded, caught fire and subsequently sank in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The DWH oil spill is the largest oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. In addition, well over one million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released to the environment as a result of the spill.

The *Deepwater Horizon* state and Federal natural resource trustees (DWH Trustees) conducted the natural resource damage assessment (NRDA) for the DWH oil spill under the Oil Pollution Act 1990 (OPA; 33 U.S.C. 2701 *et seq.*). Pursuant to OPA, Federal and state agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The DWH Trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Department of Defense (DOD);[1]
- U.S. Environmental Protection Agency (USEPA);
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- For the State of Texas, Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

Upon completion of the NRDA, the DWH Trustees reached and finalized a settlement of their natural resource damage claims with BP in a Consent Decree approved by the United States District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in Alabama are now chosen and managed by the Alabama Trustee Implementation Group (TIG). The Alabama TIG is composed of the following Trustees:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Environmental Protection Agency (USEPA); and
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama.

The DWH Trustees received extensive comments and restoration project ideas during the scoping process in 2011 for the comprehensive Gulf Spill Restoration Plan and Programmatic EIS prepared by NOAA on behalf of the Trustees (76 FR 9327–9328). The DWH Trustees released this document, titled *Deepwater Horizon Oil Spill:* Final Programmatic Damage Assessment and Restoration Plan (PDARP) and Final Programmatic Environmental Impact Statement (PEIS) in February 2016. Future restoration projects, including those developed in this recreational use RP/EIS, will be developed in accordance with the PDARP/PEIS.

The purpose of the scoping process is to identify the concerns of the affected public and Federal agencies, states, and Indian tribes, involve the public in the decision making process, facilitate efficient restoration planning and environmental review, define the issues and alternatives that will be examined in detail, and save time by ensuring that draft documents adequately address relevant issues. This scoping notice is also intended to elicit your restoration project ideas. The scoping process reduces paperwork and delay by ensuring that important issues are considered early in the decision making process. Following the scoping process, the Alabama TIG will prepare a draft RP/EIS, at which time the public will be encouraged to comment on the document. A public comment meeting or meetings will be held at that time to gather public input on the document.

## Invitation To Comment

The Alabama TIG seeks public involvement in the scoping process and development of the recreational use RP/EIS. The Alabama TIG invites public comment during the 30-day public comment period regarding (1) the scope, content, and any significant issues the Alabama TIG should consider in the RP/EIS, and (2) potential restoration project ideas. The Alabama TIG has published a Scoping Announcement which can be accessed at *www.alabamacoastalrestoration.org.*

## Next Steps

Following scoping, the Alabama TIG intends to release the draft RP/EIS by late summer or early fall 2016. At that time, the Alabama TIG will invite public review and comment on the document.

## Administrative Record

The documents comprising the Administrative Record can be viewed electronically at the following location: *https://www.doi.gov/deepwaterhorizon/adminrecord.*

## Authority

The authority of this action is the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*), and the implementing Natural Resource Damage Assessment regulations found at 15 CFR part 990.

Dated: June 21, 2016.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

[FR Doc. 2016–15920 Filed 7–5–16; 8:45 am]

BILLING CODE 3510–22–P

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# DEPARTMENT OF DEFENSE

## Department of the Air Force

## Notice of Intent to an Exclusive Patent License

**AGENCY:** Office of Research and Technology Application.

**ACTION:** Notice of intent.

**SUMMARY:** Pursuant to the provisions of Part 404 of Title 37, Code of Federal Regulations, which implements Public Law 96–517, as amended, the Department of the Air Force announces its intention to grant an exclusive license in favor of Roccor, LLC, having a place of business at 2602 Clover Basin Drive, Suite D, Longmont, CO 80301 in any right, title, and interest the Air Force has in the following patents:

U.S. Patent No. 7,895,795, issued 1 March 2011, titled "Triangular rollable and collapsible boom," by Thomas W. Murphey *et al.*

U.S. Patent No. 8,356,774, issued 22 January 2013, titled "Structure for storing and unfurling material," by Jeremy A. Banik *et al.*

U.S. Patent No. 7,354,033, issued 8 April 2008, titled "Tape-spring deployable hinge," by Thomas W. Murphey *et al.*

U.S. Patent No. 7,435,032, issued 14 October 2008, titled "Resilient joint for deployable structures," by Thomas W. Murphey *et al.*

U.S. Patent No. 8,462,078, issued 11 June 2013, titled "Deployable shell with wrapped gores," by Thomas W. Murphey *et al.*

U.S. Patent No. 8,434,196, issued 7 May 2013, titled "Multi-axis compliant hinge," by Thomas W. Murphey *et al.*

**SUPPLEMENTARY INFORMATION:** For an objection to the prospective license to be considered, it must be submitted in writing and be received at the following address within fifteen (15) days from the date of publication of this Notice.

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[1] Although a trustee under OPA by virtue of the proximity of its facilities to the *Deepwater Horizon* oil spill, DOD is not a member of the Trustee Council and does not participate in DWH Trustee decision-making.

Written objection should be sent to: James M. Skorich, Esq. 2251 Maxwell Street SE., 377th AFNWC/JAN, Kirtland AFB NM 87117. Phone: (505) 846–5172.

**Henry Williams,**

*Acting Air Force Federal Register Liaison Officer.*

[FR Doc. 2016–15953 Filed 7–5–16; 8:45 am]

**BILLING CODE 5001–10–P**

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## DEPARTMENT OF DEFENSE

### Department of the Army

### Army Science Board Partially Closed Meeting Notice

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice of a partially closed meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (U.S.C. 552b, as amended) and 41 Code of Federal Regulations (CFR) § 102–3.140 through 160, the Department of the Army announces the following committee meeting:

*Name of Committee:* Army Science Board (ASB) Summer Voting Session.

*Date:* Wednesday, July 27 and Thursday, July 28, 2016.

*Time:*

*Closed portion:* 1330–1700 on July 27, 2016.

*Open portion:* 0900–1200 on July 28, 2016.

*Location:* Arnold and Mabel Beckman Center of the National Academies of Sciences and Engineering, 100 Academy Way, Irvine, CA 92617.

*Purpose of Meeting:* The purpose of the meeting is for all members of the Board and its subcommittees to meet and present five of six Fiscal Year 2016 (FY16) studies to the voting members for their consideration, deliberation, and vote.

*Agenda:* The board will present findings and recommendations for deliberation and vote on the following five FY16 studies:

The Military Benefits and Risks of the Internet of Things. This study is not classified and will be presented during the open portion of the meeting. The purpose of this study is to determine the advisability of the Army applying the commercial practice of networking civilian physical systems into a military analog of the "internet of things (IOT)." As IOT moves beyond the exchange of information in cyber space to the networking of operating systems of physical objects. It will apply and extend relevant findings and recommendations of the Army Science Board studies on cyber vulnerability and electronics countermeasures, the Navy Studies Board network vulnerability study, and the Defense Science Board cyber vulnerability study and autonomy study.

Robotic and Autonomous Systems-of-Systems Architecture. This study contains classified and unclassified material and will be presented in the open and closed portions of the meeting. The objective of this study is to identify the Army formations with the greatest potential to benefit from adoption of robotics and autonomous systems (RAS) technology in both the near term (7–10 years) and the long term (10–25 years). For each selected application, the study will define the benefits of RAS, considering such factors as cost, manpower reduction, survivability, and mission effectiveness. The study team will make maximum use of existing platforms available in the Army, other Services, or commercially.

Countering Enemy Indirect Fires, Target Acquisition Using Unmanned Aerial Systems, and Offensive Cyber/Electronic Warfare Capabilities. This study is classified and will be presented in the closed meeting. The purpose of this study is to conduct a thorough threat assessment of capabilities, both today and in the future, of various adversaries; examine existing and potential means to counter each element of indirect fire systems, to include target acquisition using unmanned aerial systems, and direction finding technologies; develop means to counter each element of the indirect fire systems and determine the effect of countering each element; determine the cost (manpower and materiel) and effectiveness of the counter to each element of the threat system; determine if modern means of engineering and manufacturing can correct the problems in many of today's munitions that cause them to become treaty prohibited; determine the cost-effectiveness of combining various counter means to threat systems; and propose the most cost-effective set of actions necessary to counter future enemy indirect fire capabilities.

Future Armor/Anti-Armor Competition. This study is classified and will be presented in the closed meeting. The study objective is to provide an independent assessment of current and future anti-armor weapons versus armored vehicles.

Army Efforts to Enhance Soldier and Team Performance. This study contains classified and unclassified material and will be presented in the open and closed portions of the meeting. This study will provide an independent assessment of current and future Soldier enhancement techniques the Army may adopt as long-term practices. It will look at the advances in biological, biomedical, and pharmaceutical technologies as they apply to the Army. The study will also analyze trends in the broader area of human enhancement for relevant application to future force capabilities, and consider individual, organizational, and cultural risks of application within the military. Finally, it may consider whether and how cultural values of foreign nations may facilitate the development and application of enhancements that the U.S. Government would see as more extreme or unethical.

**FOR FURTHER INFORMATION CONTACT:** Army Science Board, Designated Federal Officer, 2530 Crystal Drive, Suite 7098, Arlington, VA 22202; LTC Stephen K. Barker, the committee's Designated Federal Officer (DFO), at (703) 545–8652 or email: *stephen.k.barker.mil@mail.mil,* or Mr. Paul Woodward at (703) 695–8344 or email: *paul.j.woodward2.civ@mail.mil.*

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 3.165, and the availability of space, the open portion of this meeting is open to the public. Seating is on a first-come basis. The Beckman Center is fully handicapped accessible. For additional information about public access procedures, contact LTC Stephen Barker at the telephone number or email address listed in the **FOR FURTHER INFORMATION CONTACT** section. The Department of the Army has determined that the closed portion of this meeting is properly closed in accordance with 5 U.S.C. 552b(c)(1), which permits Federal Advisory Committee meetings to be closed which are likely to "disclose matters that are (A) specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive Order."

**SUPPLEMENTARY INFORMATION:** Pursuant to 41 CFR 102–3.140d, the Committee is not obligated to allow the public to speak; however, interested persons may submit a written statement for consideration by the Subcommittees. Individuals submitting a written statement must submit their statement to the DFO at the address listed above. Written statements not received at least 10 calendar days prior to the meeting may not be considered by the Board prior to its scheduled meeting.

The DFO will review all timely submissions with the Board's executive committee and ensure they are provided to the specific study members as necessary before, during, or after the meeting. After reviewing written comments, the study chairs and the

DFO may choose to invite the submitter of the comments to orally present their issue during a future open meeting.

The DFO, in consultation with the executive committee, may allot a specific amount of time for members of the public to present their issues for discussion.

**Brenda S. Bowen,**

*Army Federal Register Liaison Officer.*

[FR Doc. 2016–15901 Filed 7–5–16; 8:45 am]

BILLING CODE 5001–03–P

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Defense Business Board; Notice of Federal Advisory Committee Meeting

**AGENCY:** DoD.

**ACTION:** Meeting notice.

**SUMMARY:** The Department of Defense is publishing this notice to announce the following Federal advisory committee meeting of the Defense Business Board. This meeting is open to the public.

**DATES:** The public meeting of the Defense Business Board ("the Board") will be held on Thursday, July 21, 2016. The meeting will begin at 1:00 p.m. and end at 2:30 p.m. (Escort required; see guidance in the **SUPPLEMENTARY INFORMATION** section, "Public's Accessibility to the Meeting.")

**ADDRESSES:** Room 3E863 in the Pentagon, Washington, DC (Escort required; see guidance in the **SUPPLEMENTARY INFORMATION** section, "Public's Accessibility to the Meeting.")

**FOR FURTHER INFORMATION CONTACT:** The Board's Designated Federal Officer (DFO) is Roma Laster, Defense Business Board, 1155 Defense Pentagon, Room 5B1088A, Washington, DC 20301–1155, *roma.k.laster.civ@mail.mil,* 703–695–7563. For meeting information please contact Steven Cruddas, Defense Business Board, 1155 Defense Pentagon, Room 5B1088A, Washington, DC 20301–1155, *steven.m.cruddas.civ@mail.mil,* (703) 697–2168. For submitting written comments or questions to the Board, send via email to mailbox address: *osd.pentagon.odam.mbx.defense-business-board@mail.mil.* Please include in the Subject line "DBB July 2016 Meeting."

**SUPPLEMENTARY INFORMATION:** This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140.

*Purpose of the Meeting:* The Board will receive presentations from its task groups on *"Logistics as a Competitive War Fighting Advantage"* and *"Future Issues Facing the Department" (2017 Administration Transition Report).*

The mission of the Board is to examine and advise the Secretary of Defense on overall DoD management and governance providing independent advice which reflects an outside private sector perspective on proven and effective best business practices that can be applied to the DoD.

*Availability of Materials for the Meeting:* A copy of the agenda and the terms of reference for each Task Group study may be obtained from the Board's Web site at *http://dbb.defense.gov/meetings.*

*Meeting Agenda:* 1:00 p.m.–2:30 p.m. —Presentations on *"Logistics as a Competitive War Fighting Advantage"* and *"Future Issues Facing the Department,"* followed by Board Deliberation and Vote, if necessary.

Submission of written public comments is strongly encouraged, due to meeting time constraints.

*Public's Accessibility to the Meeting:* Pursuant to FACA and 41 CFR 102–3.140, this meeting is open to the public. Seating is limited and is on a first-come basis. All members of the public who wish to attend the public meeting must contact Steven Cruddas at the number listed in the **FOR FURTHER INFORMATION CONTACT** section no later than 12:00 p.m. on Friday, July 15, 2016 to register and make arrangements for a Pentagon escort, if necessary. Public attendees requiring escort should arrive at the Pentagon Visitor's Center, located near the Pentagon Metro Station's south exit (the escalators to the left upon exiting through the turnstiles) and adjacent to the Pentagon Transit Center bus terminal, with sufficient time to complete security screening no later than 12:30 p.m. on July 21. Note: Pentagon tour groups enter through the Visitor's Center, so long lines could form well in advance. To complete security screening, please come prepared to present two forms of identification of which one must be a pictured identification card. Government and military DoD CAC holders are not required to have an escort, but are still required to pass through the Visitor's Center to gain access to the Building.

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact Steven Cruddas at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

**Procedures for Providing Public Comments**

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of FACA, the public or interested organizations may submit written comments to the Board about its mission and topics pertaining to this public meeting.

Written comments should be received by the DFO at least five (5) business days prior to the meeting date so that the comments may be made available to the Board for their consideration prior to the meeting. Written comments should be submitted via email to the email address for public comments given in the **FOR FURTHER INFORMATION CONTACT** section in either Adobe Acrobat or Microsoft Word format. Please include in the Subject line "DBB July 2016 Meeting." Please note that since the Board operates under the provisions of the FACA, as amended, all submitted comments and public presentations will be treated as public documents and may be made available for public inspection, including, but not limited to, being posted on the Board's Web site.

Dated: June 29, 2016.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2016–15921 Filed 7–5–16; 8:45 am]

BILLING CODE 5001–06–P

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## DEPARTMENT OF ENERGY

### Proposed Agency Information Collection Extension

**AGENCY:** U.S. Department of Energy.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of Energy (DOE), pursuant to the Paperwork Reduction Act of 1995, intends to extend for three years an information collection request with the Office of Management and Budget (OMB). Comments are invited on: (a) Whether the extended collection of information is necessary for the proper performance of the functions of the agency; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the

use of automated collection techniques or other forms of information technology.

**DATES:** Comments regarding this proposed information collection must be received on or before September 6, 2016. If you anticipate difficulty in submitting comments within that period, contact the person listed in ADDRESSES as soon as possible.

**ADDRESSES:** Written comments may be sent to Mark Westergard, U.S. Department of Energy, LPO–70, Room 4B–160, 1000 Independence Avenue SW., Washington, DC 20585 or by fax at 202–287–5816.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Mark S. Westergard, *LPO.PaperworkReductionAct.Comments@hq.doe.gov.*

**SUPPLEMENTARY INFORMATION:** This information collection request contains: (1) OMB No.: 1910–5134; (2) Information Collection Request Title: 10 CFR part 609—Loan Guarantees for Projects that Employ Innovative Technologies; (3) Type of Request: Extension (4) Purpose: This information collection package covers collection of information necessary to evaluate applications for loan guarantees submitted under Title XVII of the Energy Policy Act of 2005, as amended, 42 U.S.C. 16511–16516. Applications for loan guarantees submitted to DOE in response to a solicitation must contain certain information. This information will be used to analyze whether a project is eligible for a loan guarantee and to evaluate the application under criteria specified in 10 CFR part 609. The collection of this information is critical to ensure that the government has sufficient information to determine whether applicants meet the eligibility requirements to qualify for a DOE loan guarantee and to provide DOE with sufficient information to evaluate an applicant's project using the criteria specified in 10 CFR part 609; (5) Annual Estimated Number of Respondents: 100 Applications; (6) Annual Estimated Number of Total Responses: It is estimated that the total number of annual responses will not exceed 100; (7) Annual Estimated Number of Burden Hours: 13,000 hours, most of which is likely to be time committed by firms that seek debt and/or equity financing for their projects, regardless of their intent to apply for a DOE loan guarantee; (8) Annual Estimated Reporting and Recordkeeping Cost Burden: It is estimated that the annual estimated reporting and recordkeeping cost burden for applicants will not exceed $25,000 per annum.

**Authority:** Title XVII of the Energy Policy Act of 2005 42 U.S.C. 16511–16516 authorizes the collection of information.

Issued in Washington, DC, on June 29, 2016.

**Mark A. McCall,**

*Executive Director, Department of Energy Loan Programs Office.*

[FR Doc. 2016–15934 Filed 7–5–16; 8:45 am]

**BILLING CODE 6450–01–P**

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

### [Docket No. EL16–25–000]

## Startrans, IO, LLC; Notice Pursuant to Section 206(b) of the Federal Power Act

On December 30, 2015, pursuant to section 206 of the Federal Power Act (FPA),[1] the Commission instituted a proceeding in Docket No. EL16–25–000. *Startrans IO, LLC,* 153 FERC ¶ 61,360 (2015). The refund effective date for the proceeding instituted in Docket No. EL16–25–000 is January 6, 2016, the date of publication in the **Federal Register**[2] of notice of the Commission's action in this proceeding.

Under section 206 of the FPA, if no final decision is rendered by the conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to section 206, the Commission must state why it has failed to render a final decision. In that event the Commission must also provide its best estimate as to when it reasonably expects to make such a decision.

The Commission will be unable to render a final decision within the time prescribed in section 206(b) because the proceeding is pending before a settlement judge.

In a June 13, 2016 report to the Commission, the settlement judge estimated that if the proceeding does not settle, a presiding judge would issue an initial decision within 47 weeks of the designation of a presiding judge. The Commission will require approximately four months after briefs on and opposing exceptions to an initial decision are filed to review the record, the initial decision and the briefs, and to issue an opinion. This estimate is influenced by the issues in the proceeding, as well as the complexity of the issues.

Assuming that the proceeding does not settle, the best estimate of when the Commission will reach a final decision in Docket No. EL16–25–000 is December 31, 2017.

The Secretary of the Commission issues this notice pursuant to section 375.302(w) of the Commission's rules, 18 CFR 375.302(w) (2015).

Dated: June 29, 2016.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2016–15945 Filed 7–5–16; 8:45 am]

**BILLING CODE 6717–01–P**

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[1] 16 U.S.C. 824e (2012).

[2] 81 FR 476–01 (2016).

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER11–3013–006; ER10–2870–007; ER10–2865–007.

*Applicants:* Coolidge Power LLC, TransCanada Power Marketing Ltd, TransCanada Energy Sales Ltd.

*Description: Updated Market Power Analysis for the Southwest Region of the TransCanada Entities, et al.*

*Filed Date:* 6/28/16.

*Accession Number:* 20160628–5188.

*Comments Due:* 5 p.m. ET 7/19/16.

*Docket Numbers:* ER16–833–002.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description: Compliance filing: 2016–06–28 90 day PRA Compliance Filing to be effective 9/1/2016.*

*Filed Date:* 6/28/16.

*Accession Number:* 20160628–5144.

*Comments Due:* 5 p.m. ET 7/19/16.

*Docket Numbers:* ER16–1462–001.

*Applicants:* Palmco Power DE LLC.

*Description: Asset Appendix to June 27, 2016 Palmco Power DE LLC tariff filing.*

*Filed Date:* 6/24/16.

*Accession Number:* 20160624–5267.

*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–1464–001.

*Applicants:* Palmco Power ME, LLC.

*Description:* Asset Appendix to June 27, 2016 Palmco Power ME, LLC tariff filing.

*Filed Date:* 6/27/16.

*Accession Number:* 20160627–5334.

*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–1465–001.

*Applicants:* Palmco Power MI LLC.

*Description: Asset Appendix to June 27, 2016 Palmco Power MI LLC tariff filing.*

*Filed Date:* 6/24/16.

*Accession Number:* 20160624–5268.
*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–1466–001.
*Applicants:* Palmco Power NH LLC.
*Description: Asset Appendix B for Palmco Power NH LLC.*
*Filed Date:* 6/27/16.
*Accession Number:* 20160627–5329.
*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–1467–001.
*Applicants:* Palmco Power VA LLC.
*Description: Asset Appendix to June 27, 2016 Palmco Power VA LLC tariff filing.*
*Filed Date:* 6/27/16.
*Accession Number:* 20160627–5331.
*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–1468–001.
*Applicants:* Palmco Power RI LLC.
*Description: Asset Appendix to June 27, 2016 Palmco Power RI LLC tariff filing.*
*Filed Date:* 6/27/16.
*Accession Number:* 20160627–5332.
*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–1635–001.
*Applicants:* Arizona Public Service Company.
*Description: Tariff Amendment: Rate Schedule No. 281 to be effective 7/6/2016.*
*Filed Date:* 6/28/16.
*Accession Number:* 20160628–5197.
*Comments Due:* 5 p.m. ET 7/19/16.

*Docket Numbers:* ER16–2039–000.
*Applicants:* Midcontinent Independent System Operator, Inc.
*Description: § 205(d) Rate Filing: 2016–06–28_SA 2924 Prairie Wind Energy-MidAmerican FCA (J344) to be effective 6/29/2016.*
*Filed Date:* 6/28/16.
*Accession Number:* 20160628–5110.
*Comments Due:* 5 p.m. ET 7/19/16.

*Docket Numbers:* ER16–2040–000.
*Applicants:* Southwest Power Pool, Inc.
*Description: § 205(d) Rate Filing: 1883R5 Westar Energy, Inc. NITSA and NOA (Alma) to be effective 9/1/2016.*
*Filed Date:* 6/28/16.
*Accession Number:* 20160628–5119.
*Comments Due:* 5 p.m. ET 7/19/16.

*Docket Numbers:* ER16–2041–000.
*Applicants:* Southwest Power Pool, Inc.
*Description: § 205(d) Rate Filing: 1886R5 Westar Energy, Inc. NITSA and NOA (Doniphan) to be effective 9/1/2016.*
*Filed Date:* 6/28/16.
*Accession Number:* 20160628–5122.
*Comments Due:* 5 p.m. ET 7/19/16.

*Docket Numbers:* ER16–2042–000.
*Applicants:* Southwest Power Pool, Inc.
*Description: § 205(d) Rate Filing: 1887R5 Westar Energy, Inc. NITSA and NOA (Elsmore) to be effective 9/1/2016.*
*Filed Date:* 6/28/16.
*Accession Number:* 20160628–5123.
*Comments Due:* 5 p.m. ET 7/19/16.

*Docket Numbers:* ER16–2043–000.
*Applicants:* Southwest Power Pool, Inc.
*Description: § 205(d) Rate Filing: 3207 WAPA–UGP and Montana-Dakota Utilities Att AO to be effective 6/1/2016.*
*Filed Date:* 6/28/16.
*Accession Number:* 20160628–5128.
*Comments Due:* 5 p.m. ET 7/19/16.

*Docket Numbers:* ER16–2044–000.
*Applicants:* Elk Hills Power, LLC.
*Description: Market-Based Triennial Review Filing: EHP Market Based Rate Triennial Review to be effective 6/29/2016.*
*Filed Date:* 6/28/16.
*Accession Number:* 20160628–5170.
*Comments Due:* 5 p.m. ET 7/19/16.

*Docket Numbers:* ER16–2045–000.
*Applicants:* Southwest Power Pool, Inc.
*Description: § 205(d) Rate Filing: 1884R5 Westar Energy, Inc. NITSA and NOA (Blue Mound) to be effective 9/1/2016.*
*Filed Date:* 6/28/16.
*Accession Number:* 20160628–5174.
*Comments Due:* 5 p.m. ET 7/19/16.

*Docket Numbers:* ER16–2046–000.
*Applicants:* Alta Wind VIII, LLC.
*Description: § 205(d) Rate Filing: Market-Based Rate Notice of Change in Status to be effective 6/29/2016.*
*Filed Date:* 6/28/16.
*Accession Number:* 20160628–5196.
*Comments Due:* 5 p.m. ET 7/19/16.

*Docket Numbers:* ER16–2047–000.
*Applicants:* Midcontinent Independent System Operator, Inc.
*Description: § 205(d) Rate Filing: 2016–06–28_SA 2778 MidAmerican-MidAmerican LGIA (R38) to be effective 6/29/2016.*
*Filed Date:* 6/28/16.
*Accession Number:* 20160628–5213.
*Comments Due:* 5 p.m. ET 7/19/16.

Take notice that the Commission received the following public utility holding company filings:

*Docket Numbers:* PH16–8–000.
*Applicants:* Starwood Energy Group Global, L.L.C.
*Description: Starwood Energy Group Global, L.L.C. submits FERC 65–B Material Change in Facts of Waiver Notification.*
*Filed Date:* 6/27/16.
*Accession Number:* 20160627–5326.
*Comments Due:* 5 p.m. ET 7/18/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 28, 2016.

**Nathaniel J. Davis, Sr.,**
*Deputy Secretary.*

[FR Doc. 2016–15873 Filed 7–5–16; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10–1651–003.
*Applicants:* Golden State Water Company.
*Description:* Updated Market Power Analysis of Golden State Water Company.
*Filed Date:* 6/28/16.
*Accession Number:* 20160628–5266.
*Comments Due:* 5 p.m. ET 8/29/16.

*Docket Numbers:* ER10–2882–025; ER10–2886–025; ER13–1101–020; ER13–1541–019; ER14–661–011; ER14–787–013; ER15–54–005; ER15–55–005; ER15–1475–006; ER15–2593–005; ER16–452–005; ER16–705–003; ER16–706–003.
*Applicants:* RE Garland LLC, RE Garland A LLC, RE Tranquillity LLC, Desert Stateline LLC, North Star Solar, LLC, Lost Hills Solar, LLC, Blackwell Solar, LLC, Macho Springs Solar, LLC, SG2 Imperial Valley LLC, Campo Verde Solar, LLC, Spectrum Nevada Solar, LLC, Southern Turner Cimarron I, LLC, Southern Power Company.
*Description:* Triennial Market Power Update for Southwest Region of Southern Power Company, et al.
*Filed Date:* 6/28/16.
*Accession Number:* 20160628–5269.
*Comments Due:* 5 p.m. ET 8/29/16.

*Docket Numbers:* ER10–3140–024.
*Applicants:* Inland Empire Energy Center, LLC.

*Description:* Triennial Market Power Analysis of Inland Empire Energy Center, LLC.
*Filed Date:* 6/28/16.
*Accession Number:* 20160628–5265.
*Comments Due:* 5 p.m. ET 8/29/16.

*Docket Numbers:* ER10–3300–013.
*Applicants:* La Paloma Generating Company, LLC.
*Description:* Supplement to April 26, 2016 Notice of Change in Status of La Paloma Generating Company, LLC.
*Filed Date:* 6/28/16.
*Accession Number:* 20160628–5271.
*Comments Due:* 5 p.m. ET 7/19/16.

*Docket Numbers:* ER16–341–001; ER16–343–001; ER16–498–001; ER16–499–001; ER16–500–001; ER16–645–001.
*Applicants:* RE Astoria LLC, RE Astoria 2 LLC, RE Mustang LLC, RE Mustang 3 LLC, RE Mustang 4 LLC, RE Barren Ridge 1 LLC.
*Description:* Triennial Market Power Analysis for Southwest Region of the Recurrent MBR Sellers, et al.
*Filed Date:* 6/28/16.
*Accession Number:* 20160628–5277.
*Comments Due:* 5 p.m. ET 8/29/16.

*Docket Numbers:* ER16–1635–002.
*Applicants:* Arizona Public Service Company.
*Description:* Tariff Amendment: Rate Schedule No. 281 to be effective 7/6/2016.
*Filed Date:* 6/28/16.
*Accession Number:* 20160628–5240.
*Comments Due:* 5 p.m. ET 7/19/16.

*Docket Numbers:* ER16–1644–001; ER14–608–001.
*Applicants:* MRP Generation Holdings, LLC, High Desert Power Project, LLC.
*Description:* Updated Market Power Analysis for the Southwest Region of MRP Generation Holdings, LLC, et al.
*Filed Date:* 6/28/16.
*Accession Number:* 20160628–5274.
*Comments Due:* 5 p.m. ET 8/29/16.

*Docket Numbers:* ER16–2048–000.
*Applicants:* Exelon West Medway II, LLC.
*Description:* Baseline eTariff Filing: Certificate of Concurrence Filing to be effective 10/1/2016.
*Filed Date:* 6/28/16.
*Accession Number:* 20160628–5243.
*Comments Due:* 5 p.m. ET 7/19/16.

*Docket Numbers:* ER16–2049–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 1888R5 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2016.
*Filed Date:* 6/29/16.
*Accession Number:* 20160629–5007.
*Comments Due:* 5 p.m. ET 7/20/16.

*Docket Numbers:* ER16–2050–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 3208 WAPA–UGP and Otter Tail Power Company Att AO to be effective 6/1/2016.
*Filed Date:* 6/29/16.
*Accession Number:* 20160629–5008.
*Comments Due:* 5 p.m. ET 7/20/16.

*Docket Numbers:* ER16–2051–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 3181 Basin Electric and Otter Tail Power Attachment AO to be effective 6/1/2016.
*Filed Date:* 6/29/16.
*Accession Number:* 20160629–5018.
*Comments Due:* 5 p.m. ET 7/20/16.

*Docket Numbers:* ER16–2052–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 1885R5 Westar Energy, Inc. NITSA and NOA (Bronson) to be effective 9/1/2016.
*Filed Date:* 6/29/16.
*Accession Number:* 20160629–5037.
*Comments Due:* 5 p.m. ET 7/20/16.

*Docket Numbers:* ER16–2053–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 1891R5 Westar Energy, Inc. NITSA and NOA (Mulberry) to be effective 9/1/2016.
*Filed Date:* 6/29/16.
*Accession Number:* 20160629–5038.
*Comments Due:* 5 p.m. ET 7/20/16.

*Docket Numbers:* ER16–2054–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 1892R5 Westar Energy, Inc. NITSA and NOA (Robinson) to be effective 9/1/2016.
*Filed Date:* 6/29/16.
*Accession Number:* 20160629–5039.
*Comments Due:* 5 p.m. ET 7/20/16.

*Docket Numbers:* ER16–2055–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 1893R5 Westar Energy, Inc. NITSA and NOA (Savonburg) to be effective 9/1/2016.
*Filed Date:* 6/29/16.
*Accession Number:* 20160629–5040.
*Comments Due:* 5 p.m. ET 7/20/16.

*Docket Numbers:* ER16–2056–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 1895R5 Westar Energy, Inc. NITSA and NOA (Wathena) to be effective 9/1/2016.
*Filed Date:* 6/29/16.
*Accession Number:* 20160629–5041.
*Comments Due:* 5 p.m. ET 7/20/16.

*Docket Numbers:* ER16–2057–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 1897R5 Westar Energy, Inc. NITSA and NOA (Elwood) to be effective 9/1/2016.
*Filed Date:* 6/29/16.
*Accession Number:* 20160629–5042.
*Comments Due:* 5 p.m. ET 7/20/16.

*Docket Numbers:* ER16–2058–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 2066R5 Westar Energy, Inc. NITSA and NOA (Muscotah) to be effective 9/1/2016.
*Filed Date:* 6/29/16.
*Accession Number:* 20160629–5048.
*Comments Due:* 5 p.m. ET 7/20/16.

*Docket Numbers:* ER16–2059–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 1894R5 Westar Energy, Inc. NITSA and NOA (Vermillion) to be effective 9/1/2016.
*Filed Date:* 6/29/16.
*Accession Number:* 20160629–5050.
*Comments Due:* 5 p.m. ET 7/20/16.

*Docket Numbers:* ER16–2060–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 1889R5 Westar Energy, Inc. NITSA and NOA (Mindenmines) to be effective 9/1/2016.
*Filed Date:* 6/29/16.
*Accession Number:* 20160629–5057.
*Comments Due:* 5 p.m. ET 7/20/16.

*Docket Numbers:* ER16–2061–000.
*Applicants:* Public Service Company of New Mexico.
*Description:* Initial rate filing: Executed NITSA and NOA between PNM and Kit Carson Electric Cooperative to be effective 7/1/2016.
*Filed Date:* 6/29/16.
*Accession Number:* 20160629–5062.
*Comments Due:* 5 p.m. ET 7/20/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 29, 2016.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2016–15943 Filed 7–5–16; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RM15–11–000]**

## Reliability Standard for Transmission System Planned Performance for Geomagnetic Disturbance Events; Notice of Filing

Take notice that on June 28, 2016, North American Electric Reliability Corporation submitted supplemental information to its January 21, 2015 petition for approval of proposed Reliability Standard TPL–007–1—Transmission System Planned Performance for Geomagnetic Disturbance Events.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on July 20, 2016.

Dated: June 29, 2016.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2016–15946 Filed 7–5–16; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC16–135–000.
*Applicants:* AEP Texas Central Company, AEP Texas North Company, AEP Utilities, Inc.
*Description:* Application for Approval of Internal Reorganization Under Section 203 of the Federal Power Act of American Electric Power Service Corporation on behalf of AEP Texas Central Company, AEP Texas North Company and AEP Utilities, Inc.
*Filed Date:* 6/27/16.
*Accession Number:* 20160627–5226.
*Comments Due:* 5 p.m. ET 7/18/16.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER11–2044–000.
*Applicants:* MidAmerican Energy Company.
*Description:* MidAmerican Energy Company submits tariff filing per 35.19a(b): Refund Report to be effective N/A.
*Filed Date:* 6/27/16.
*Accession Number:* 20160627–5321.
*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER15–2211–000.
*Applicants:* MidAmerican Energy Services, LLC.
*Description:* MidAmerican Energy Services, LLC submits tariff filing per 35.19a(b): Refund Report to be effective.
*Filed Date:* 6/27/16.
*Accession Number:* 20160627–5320.
*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–1335–001.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* Tariff Amendment: Response to Deficiency Letter per May 27, 2016 Order in Docket No. ER16–1335–000 to be effective 6/1/2016.
*Filed Date:* 6/27/16.
*Accession Number:* 20160627–5247.
*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–1422–001.
*Applicants:* Public Service Company of Colorado.
*Description:* Compliance filing: PSCo-WAPA-Brlngtn Bndry Mtrs Agrmt 402–0.0.0 to be effective 4/16/2016.
*Filed Date:* 6/27/16.
*Accession Number:* 20160627–5159.
*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–1422–002.
*Applicants:* Public Service Company of Colorado.
*Description:* Compliance filing: PSCo-TSGT—Ft. Lupton—E&P—420—0.0.0 to be effective 4/16/2016.
*Filed Date:* 6/27/16.
*Accession Number:* 20160627–5161.
*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–1462–001.
*Applicants:* Palmco Power DE LLC.
*Description:* Tariff Amendment: Palmco Power DE FERC Electric Tariff to be effective 5/19/2016.
*Filed Date:* 6/27/16.
*Accession Number:* 20160627–5141.
*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–1464–001.
*Applicants:* Palmco Power ME, LLC.
*Description:* Tariff Amendment: Palmco Power ME FERC Electric Tariff to be effective 5/20/2016.
*Filed Date:* 6/27/16.
*Accession Number:* 20160627–5151.
*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–1465–001.
*Applicants:* Palmco Power MI LLC.
*Description:* Tariff Amendment: Palmco Power MI FERC Electric Tariff to be effective 5/20/2016.
*Filed Date:* 6/27/16.
*Accession Number:* 20160627–5148.
*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–1466–001.
*Applicants:* Palmco Power NH LLC.
*Description:* Tariff Amendment: Palmco Power NH FERC Electric Tariff to be effective 5/20/2016.
*Filed Date:* 6/27/16.
*Accession Number:* 20160627–5154.
*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–1467–001.
*Applicants:* Palmco Power VA LLC.
*Description:* Tariff Amendment: Palmco Power VA FERC Electric Tariff to be effective 5/20/2016.
*Filed Date:* 6/27/16.
*Accession Number:* 20160627–5156.
*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–1468–001.
*Applicants:* Palmco Power RI LLC.
*Description:* Tariff Amendment: Palmco Power RI FERC Electric Tariff to be effective 5/20/2016.
*Filed Date:* 6/27/16.
*Accession Number:* 20160627–5158.
*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–2024–000.

*Applicants:* ISO New England Inc., NSTAR Electric Company.

*Description:* § 205(d) Rate Filing: Original Service Agreement No. LGIA–ISONE/NSTAR–16–04 under Schedule 22 of OATT to be effective 6/14/2016.

*Filed Date:* 6/27/16.

*Accession Number:* 20160627–5172.

*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–2025–000.

*Applicants:* Mt. Carmel Cogen, Inc.

*Description:* Baseline eTariff Filing: Reactive Service Tariff to be effective 8/1/2016.

*Filed Date:* 6/27/16.

*Accession Number:* 20160627–5175.

*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–2026–000.

*Applicants:* Southern California Edison Company.

*Description:* Tariff Cancellation: Notice of Cancellation, Service Agreement No. 866 to be effective 7/13/2016.

*Filed Date:* 6/27/16.

*Accession Number:* 20160627–5183.

*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–2027–000.

*Applicants:* Duke Energy Carolinas, LLC.

*Description:* § 205(d) Rate Filing: NCMPA NITSA Amendment SA No. 212 to be effective 6/1/2016.

*Filed Date:* 6/27/16.

*Accession Number:* 20160627–5195.

*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–2028–000.

*Applicants:* Exelon West Medway, LLC.

*Description:* Baseline eTariff Filing: Rate Schedule 1—Shared Facilities Agreement to be effective 10/1/2016.

*Filed Date:* 6/27/16.

*Accession Number:* 20160627–5233.

*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–2029–000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* § 205(d) Rate Filing: 2016–06–27_SA 2910 Harvest Wind-Geronimo Huron Cost Allocation Agreement to be effective 6/28/2016.

*Filed Date:* 6/27/16.

*Accession Number:* 20160627–5237.

*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–2030–000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* § 205(d) Rate Filing: 1166R28 Oklahoma Municipal Power Authority NITSA and NOA to be effective 6/1/2016.

*Filed Date:* 6/27/16.

*Accession Number:* 20160627–5242.

*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–2031–000.

*Applicants:* Tampa Electric Company.

*Description:* § 205(d) Rate Filing: Revisions to Short-Form MBR Tariff to be effective 7/1/2016.

*Filed Date:* 6/27/16.

*Accession Number:* 20160627–5254.

*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–2032–000.

*Applicants:* Greenleaf Energy Unit 1 LLC.

*Description:* § 205(d) Rate Filing: Tariff Amendment to be effective 6/28/2016.

*Filed Date:* 6/27/16.

*Accession Number:* 20160627–5261.

*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–2033–000.

*Applicants:* Pacific Gas and Electric Company.

*Description:* § 205(d) Rate Filing: Amendment to BART NITSA (Warm Springs Station) to be effective 8/29/2016.

*Filed Date:* 6/27/16.

*Accession Number:* 20160627–5262.

*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–2034–000.

*Applicants:* Entergy Louisiana, LLC.

*Description:* § 205(d) Rate Filing: ELL–SRMPA 10th Extension of Interim Agreement to be effective 7/1/2016.

*Filed Date:* 6/27/16.

*Accession Number:* 20160627–5265.

*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–2035–000.

*Applicants:* Black Oak Wind, LLC.

*Description:* Baseline eTariff Filing: Black Oak Wind, LLC Petition for Order Accepting Market-Based Rate Tariff to be effective 9/1/2016.

*Filed Date:* 6/27/16.

*Accession Number:* 20160627–5269.

*Comments Due:* 5 p.m. ET 7/18/16.

*Docket Numbers:* ER16–2036–000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* § 205(d) Rate Filing: 2562R4 Kansas Municipal Energy Agency NITSA and NOA to be effective 9/1/2016.

*Filed Date:* 6/28/16.

*Accession Number:* 20160628–5069.

*Comments Due:* 5 p.m. ET 7/19/16.

*Docket Numbers:* ER16–2037–000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* § 205(d) Rate Filing: 2415R5 Kansas Municipal Energy Agency NITSA and NOA to be effective 9/1/2016.

*Filed Date:* 6/28/16.

*Accession Number:* 20160628–5075.

*Comments Due:* 5 p.m. ET 7/19/16.

*Docket Numbers:* ER16–2038–000.

*Applicants:* Public Service Company of Colorado.

*Description:* § 205(d) Rate Filing: 20160628_CSU Update Record to be effective 1/1/2015.

*Filed Date:* 6/28/16.

*Accession Number:* 20160628–5093.

*Comments Due:* 5 p.m. ET 7/19/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 28, 2016.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2016–15872 Filed 7–5–16; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

### Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10–2531–006.

*Applicants:* Cedar Creek Wind Energy, LLC.

*Description:* Notice of Non-Material Change in Status of Cedar Creek Wind Energy, LLC.

*Filed Date:* 6/29/16.

*Accession Number:* 20160629–5150.

*Comments Due:* 5 p.m. ET 7/20/16.

*Docket Numbers:* ER16–711–002; ER14–1317–006; ER10–2538–006.

*Applicants:* Pio Pico Energy Center, LLC, Panoche Energy Center, LLC, Sunshine Gas Producers, LLC.

*Description:* Notice of Change in Status and Triennial Compliance Filing for the Southwest Region of Pio Pico Energy Center, LLC, et al.

*Filed Date:* 6/29/16.

*Accession Number:* 20160629–5175.

*Comments Due:* 5 p.m. ET 8/29/16.

*Docket Numbers:* ER16–999–002.

*Applicants:* Greenleaf Energy Unit 1 LLC.

*Description:* Notice of Non-Material Change in Status of Greenleaf Energy Unit 1 LLC.

*Filed Date:* 6/28/16.
*Accession Number:* 20160628–5283.
*Comments Due:* 5 p.m. ET 7/19/16.

*Docket Numbers:* ER16–999–003.
*Applicants:* Greenleaf Energy Unit 1 LLC.
*Description:* Triennial Update for Southwest Region of Greenleaf Energy Unit 1 LLC.
*Filed Date:* 6/28/16.
*Accession Number:* 20160628–5285.
*Comments Due:* 5 p.m. ET 8/29/16.

*Docket Numbers:* ER16–2062–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 2045R5 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2016.
*Filed Date:* 6/29/16.
*Accession Number:* 20160629–5063.
*Comments Due:* 5 p.m. ET 7/20/16.

*Docket Numbers:* ER16–2063–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 2390R4 Westar Energy, Inc. NITSA and NOA (Herington) to be effective 9/1/2016.
*Filed Date:* 6/29/16.
*Accession Number:* 20160629–5070.
*Comments Due:* 5 p.m. ET 7/20/16.

*Docket Numbers:* ER16–2064–000.
*Applicants:* Southern California Edison Company.
*Description:* § 205(d) Rate Filing: Amended LGIA NextEra Blythe Solar Energy Center, LLC—Dracker Project to be effective 6/30/2016.
*Filed Date:* 6/29/16.
*Accession Number:* 20160629–5076.
*Comments Due:* 5 p.m. ET 7/20/16.

*Docket Numbers:* ER16–2065–000.
*Applicants:* Otter Tail Power Company.
*Description:* § 205(d) Rate Filing: Notice of Termination of Service Agreement for Ancillary Services for Otter Tail to be effective 5/12/2016.
*Filed Date:* 6/29/16.
*Accession Number:* 20160629–5077.
*Comments Due:* 5 p.m. ET 7/20/16.

*Docket Numbers:* ER16–2066–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 2491R4 Westar Energy, Inc. NITSA and NOA (Scranton) to be effective 9/1/2016.
*Filed Date:* 6/29/16.
*Accession Number:* 20160629–5082.
*Comments Due:* 5 p.m. ET 7/20/16.

*Docket Numbers:* ER16–2067–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 1890R5 Westar Energy, Inc. NITSA and NOA (Moran) to be effective 9/1/2016.
*Filed Date:* 6/29/16.
*Accession Number:* 20160629–5083.
*Comments Due:* 5 p.m. ET 7/20/16.

*Docket Numbers:* ER16–2067–001.
*Applicants:* Southwest Power Pool, Inc.
*Description:* Tariff Amendment: 1890R5 Westar Energy, Inc. NITSA and NOA (Moran) to be effective 9/1/2016.
*Filed Date:* 6/29/16.
*Accession Number:* 20160629–5180.
*Comments Due:* 5 p.m. ET 7/20/16.

*Docket Numbers:* ER16–2068–000.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* § 205(d) Rate Filing: First Revised Service Agreement No. 4288; Queue No. AB1–064 to be effective 6/1/2016.
*Filed Date:* 6/29/16.
*Accession Number:* 20160629–5089.
*Comments Due:* 5 p.m. ET 7/20/16.

*Docket Numbers:* ER16–2069–000.
*Applicants:* MidAmerican Energy Company.
*Description:* § 205(d) Rate Filing: Market-Based Rate Tariff—5th Rev. to be effective 6/30/2016.
*Filed Date:* 6/29/16.
*Accession Number:* 20160629–5127.
*Comments Due:* 5 p.m. ET 7/20/16.

*Docket Numbers:* ER16–2070–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 1978R5 Westar Energy, Inc. NITSA and NOA (Toronto) to be effective 9/1/2016.
*Filed Date:* 6/29/16.
*Accession Number:* 20160629–5130.
*Comments Due:* 5 p.m. ET 7/20/16.

*Docket Numbers:* ER16–2071–000.
*Applicants:* Innovative Solar 43, LLC.
*Description:* Baseline eTariff Filing: Innovative Solar 43, LLC MBR Tariff to be effective 6/30/2016.
*Filed Date:* 6/29/16.
*Accession Number:* 20160629–5155.
*Comments Due:* 5 p.m. ET 7/20/16.

*Docket Numbers:* ER16–2072–000.
*Applicants:* PacifiCorp.
*Description:* Tariff Cancellation: Termination of BPA Construction Agmt (USBR Green Springs R1) to be effective 8/29/2016.
*Filed Date:* 6/29/16.
*Accession Number:* 20160629–5170.
*Comments Due:* 5 p.m. ET 7/20/16.

*Docket Numbers:* ER16–2073–000.
*Applicants:* Shell Energy North America (US), L.P.
*Description:* Market-Based Triennial Review Filing: Southwest Triennial & 819 Revisions to be effective 6/30/2016.
*Filed Date:* 6/29/16.
*Accession Number:* 20160629–5191.
*Comments Due:* 5 p.m. ET 8/29/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 29, 2016.

**Nathaniel J. Davis, Sr.,**
*Deputy Secretary.*

[FR Doc. 2016–15944 Filed 7–5–16; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

### Filings Instituting Proceedings

*Docket Numbers:* RP16–1040–000.
*Applicants:* National Fuel Gas Supply Corporation.
*Description:* Compliance filing Notice Regarding Non-Jurisdictional Gathering Facilities.
*Filed Date:* 6/22/16.
*Accession Number:* 20160622–5057.
*Comments Due:* 5 p.m. ET 7/5/16.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

### Filings in Existing Proceedings

*Docket Numbers:* RP16–943–001.
*Applicants:* Vector Pipeline L.P.
*Description:* Compliance filing Negotiated Rate RP16–943. Compliance Filing to be effective 6/1/2016.
*Filed Date:* 6/22/16.
*Accession Number:* 20160622–5017.
*Comments Due:* 5 p.m. ET 7/5/16.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 23, 2016.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2016–15874 Filed 7–5–16; 8:45 am]

**BILLING CODE 6717–01–P**

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## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OECA–2013–0547; FRL–9948–66–OECA]**

## Proposed Information Collection Request; Comment Request; Performance Evaluation Studies on Wastewater Laboratories (Renewal); EPA ICR No. 0234.12, OMB Control No. 2080–0021

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency is planning to submit an information collection request (ICR), "Performance Evaluation Studies on Wastewater Laboratories" (EPA ICR No. 0234.12, OMB Control No. 2080–0021) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through March 31, 2017. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Comments must be submitted on or before September 6, 2016.

**ADDRESSES:** Submit your comments, referencing Docket ID No. EPA–HQ–OECA–2013–0547, online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Brian Krausz, Monitoring, Assistance, and Media Programs Division, Office of Compliance, (2227A), Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–3069; fax number: (202) 564–0038; email address: *Krausz.Brian@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

*Abstract:* Discharge Monitoring Report-Quality Assurance (DMR–QA) study program participation is mandatory for major and selected minor National Pollution Discharge Elimination System (NPDES) permit holders in accordance with Clean Water Act Section 308. The DMR–QA study program is designed to evaluate the analytic ability of laboratories that perform chemical, microbiological and whole effluent toxicity (WET) analyses required in NPDES permits for reporting results in the Discharge Monitoring Reports (DMR). Under DMR–QA, the permit holder is responsible for having their in-house and/or contract laboratories perform proficiency test samples, and submit results for grading to proficiency testing (PT) providers. Graded results are transmitted by either the permittee or PT provider to the appropriate federal or state NPDES regulatory authority. Permit holders are responsible for submitting corrective action reports to the appropriate regulatory authority.

*Form Numbers:* 6400–01.

*Respondents/affected entities:* Major and selected minor permit holders under the Clean Water Act's National Pollution Discharge Elimination System (NPDES).

*Respondent's obligation to respond:* Mandatory under Clean Water Act Section 308(a).

*Estimated number of respondents:* 5,700 (total).

*Frequency of response:* Major permit holders must participate annually. Minor permit holders must participate if selected by the state or EPA DMR–QA coordinator.

*Total estimated burden:* 37,620 hours (per year). Burden is defined at 5 CFR 1320.03(b).

*Total estimated cost:* $4,378,968 (per year), includes $2,459,037 annualized capital or operation & maintenance costs.

*Changes in estimates:* There will be an approximate increase of 1,261 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This is due to increased discretionary selection of NPDES minor permit holders for DMR–QA participation in the most recent year. Labor costs will be revised upward to take into account changes in employee benefit compensation costs and inflation. Non-labor costs for obtaining proficiency test samples will also likely increase.

Dated: June 23, 2016.

**Edward J. Messina,**

*Director, Monitoring, Assistance, and Media Programs Division/OECA.*

[FR Doc. 2016–16023 Filed 7–5–16; 8:45 am]

**BILLING CODE 6560–50–P**

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## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPP–2015–0794; FRL–9948–38]**

## Atrazine, Simazine, and Propazine Registration Review; Draft Ecological Risk Assessments; Extension of Comment Period

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice; extension of comment period.

**SUMMARY:** EPA issued a notice in the **Federal Register** of June 6, 2016, concerning opening a comment period for the draft ecological risk assessments of atrazine, simazine, and propazine. This document extends the comment period for 60 days, from August 5, 2016, to October 4, 2016. This comment period is being extended in response to a number of extension requests from various stakeholders citing difficulty commenting during the growing season, and the length, quantity, and complexity of the Risk Assessments.

**DATES:** Comments, identified by docket identification (ID) number EPA–HQ–OPP–2015–0794, must be received on or before October 4, 2016.

**ADDRESSES:** Follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of June 6, 2016 (81 FR 108) (FRL–9945–06).

**FOR FURTHER INFORMATION CONTACT:** Richard Dumas, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8015; email address: *dumas.richard@epa.gov.*

**SUPPLEMENTARY INFORMATION:** This document extends the public comment period established in the **Federal Register** document of June 6, 2016. In that document, EPA opened a comment period for a draft ecological risk assessments for the registration review of atrazine, simazine, and propazine. EPA is hereby extending the comment period, which was set to end on August 5, 2016, to October 4, 2016.

To submit comments, or access the docket, please follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of June 6, 2016. If you have questions, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

**Authority:** 7 U.S.C. 136 *et seq.*

Dated: June 27, 2016.

**Yu-Ting Guilaran,**

*Director, Pesticide Re-Evaluation, Office of Pesticide Programs.*

[FR Doc. 2016–16021 Filed 7–5–16; 8:45 am]

**BILLING CODE 6560–50–P**

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## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OGC–2016–0358; FRL–9948–72–OGC]**

## Proposed Consent Decree, Clean Air Act Citizen Suit

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed consent decree; request for public comment.

**SUMMARY:** In accordance with section 113(g) of the Clean Air Act, as amended (“CAA” or the “Act”), notice is hereby given of a proposed consent decree to address a lawsuit filed by Appleton Coated, LLC (Appleton or Plaintiff), in the United States District Court for the Eastern District of Wisconsin: *Appleton Coated, LLC* v. *McCarthy*, Civil Action No. 1:16–cv–272 (E.D. Wis.). On March 7, 2016, Plaintiff filed a complaint alleging that Gina McCarthy, in her official capacity as Administrator of the United States Environmental Protection Agency (“EPA”), failed to perform a nondiscretionary duty to grant or deny within 60 days a petition submitted by Plaintiff on November 19, 2013, requesting that EPA object to a CAA Title V permit issued by the Wisconsin Department of Natural Resources to Appleton authorizing the operation of its facility located in Combined Locks, Wisconsin. The proposed consent decree would establish a deadline for EPA to take such action.

**DATES:** Written comments on the proposed consent decree must be received by August 5, 2016.

**ADDRESSES:** Submit your comments, identified by Docket ID number EPA–HQ–OGC–2016–0358, online at *www.regulations.gov* (EPA’s preferred method); by email to *oei.docket@epa.gov*; by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

**FOR FURTHER INFORMATION CONTACT:** Dan Conrad, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone: (202) 564–0903; email address: *conrad.daniel@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Additional Information About the Proposed Consent Decree

The proposed consent decree would resolve a lawsuit filed by the Plaintiff seeking to compel the Administrator to take actions under CAA section 505(b)(2). Under the terms of the proposed consent decree, EPA would agree to sign its response granting or denying the petition filed by Plaintiff regarding its facility located in Combined Locks, Wisconsin pursuant to section 505(b)(2) of the CAA, on or before October 14, 2016.

Under the terms of the proposed consent decree, EPA would expeditiously deliver notice of EPA’s response to the Office of the Federal Register for review and publication following signature of such response. In addition, the proposed consent decree outlines the settlement in regard to Petitioners’ attorney fees.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who are not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to this consent decree should be withdrawn, the terms of the consent decree will be affirmed.

### II. Additional Information About Commenting on the Proposed Consent Decree

#### *A. How can I get a copy of the consent decree?*

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2016–0358) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of

Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *www.regulations.gov.* You may use *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select "search."

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *www.regulations.gov* without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

*B. How and to whom do I submit comments?*

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (email) system is not an "anonymous access" system. If you send an email comment directly to the Docket without going through *www.regulations.gov,* your email address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: June 27, 2016.

**Lorie J. Schmidt,**

*Associate General Counsel.*

[FR Doc. 2016–16022 Filed 7–5–16; 8:45 am]

**BILLING CODE 6560–50–P**

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## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9948–74–Region 5]**

## Public Meeting of the Great Lakes Advisory Board and Science and Information Subcommittee

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) announces a public meeting of the Great Lakes Advisory Board (Board) and its Science and Information Subcommittee (SIS). The purpose of this meeting is to discuss the Great Lakes Restoration Initiative (GLRI) covering FY15–19 and other relevant matters.

**DATES:** The meeting will be held on Thursday, July 21, 2016 from 8:30 a.m. to 12:30 p.m. Central Time, 9:30 a.m. to 1:30 p.m. Eastern Time. An opportunity will be provided to the public to comment.

**ADDRESSES:** The meeting will be held at the Blue Harbor Resort, Salons E and F, 725 Blue Harbor Dr., Sheboygan, Wisconsin. For those unable to attend in person, this meeting will also be available telephonically. The teleconference number is 877–226–9607 and the teleconference code is 421 858 2837.

**FOR FURTHER INFORMATION CONTACT:** Any member of the public wishing further information regarding this meeting may contact Rita Cestaric, Designated Federal Officer (DFO), by email at *Cestaric.Rita@epa.gov.* General information about the Board and the SIS can be found at *http://glri.us/advisory/index.html.*

**SUPPLEMENTARY INFORMATION:**

*Background:* The Board is a federal advisory committee chartered under the Federal Advisory Committee Act (FACA), Public Law 92–463. EPA established the Board in 2013 to provide independent advice to the EPA Administrator in her capacity as Chair of the federal Great Lakes Interagency Task Force (IATF). The SIS was established as a subcommittee to the Board to assist the Board by providing technical advice. The Board and SIS comply with the provisions of FACA.

*Availability of Meeting Materials:* The agenda and other materials in support of the meeting will be available at *http://glri.us/advisory/index.html.*

*Procedures for Providing Public Input:* Federal advisory committees provide independent advice to federal agencies. Members of the public can submit relevant comments for consideration by the Board and the SIS. Input from the public to the committees will have the most impact if it provides specific information for consideration. Members of the public wishing to provide comments should contact the DFO directly.

*Oral Statements:* In general, individuals or groups requesting an oral presentation at this public meeting will be limited to three minutes per speaker, subject to the number of people wanting to comment. Interested parties should contact the DFO in writing (preferably via email) at the contact information noted above by July 18, 2016 to be placed on the list of public speakers for the meeting.

*Written Statements:* Written statements must be received by July 14, 2016 so that the information may be made available to the committees for consideration. Written statements should be supplied to the DFO in the following formats: One hard copy with original signature and one electronic copy via email. Commenters are requested to provide two versions of each document submitted: one each with and without signatures because only documents without signatures may be published on the GLRI Web page.

*Accessibility:* For information on access or services for individuals with disabilities, please contact the DFO at the phone number or email address noted above, preferably at least seven days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: June 27, 2016.

**Cameron Davis, Sr.,**

*Advisor to the Administrator.*

[FR Doc. 2016–16020 Filed 7–5–16; 8:45 am]

**BILLING CODE 6560–50–P**

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## FARM CREDIT ADMINISTRATION

### Farm Credit Administration Board; Sunshine Act; Regular Meeting

**AGENCY:** Farm Credit Administration.

**SUMMARY:** Notice is hereby given, pursuant to the Government in the Sunshine Act, of the regular meeting of the Farm Credit Administration Board (Board).

**DATES:** *Date and Time:* The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on July 14, 2016, from 9:00 a.m. until such time as the Board concludes its business.

**ADDRESSES:** Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090. Submit attendance requests via email to *VisitorRequest@FCA.gov.* See **SUPPLEMENTARY INFORMATION** for further information about attendance requests.

**FOR FURTHER INFORMATION CONTACT:** Dale L. Aultman, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

**SUPPLEMENTARY INFORMATION:** This meeting of the Board will be open to the public (limited space available). Please send an email to *VisitorRequest@FCA.gov* at least 24 hours before the meeting. In your email include: name, postal address, entity you are representing (if applicable), and telephone number. You will receive an email confirmation from us. Please be prepared to show a photo identification when you arrive. If you need assistance for accessibility reasons, or if you have any questions, contact Dale L. Aultman, Secretary to the Farm Credit Administration Board, at (703) 883–4009. The matters to be considered at the meeting are:

**Open Session**

A. *Approval of Minutes*
- June 9, 2016

B. *New Business*
- Farm Credit Administration Board Resolution on Farm Credit System's 100th Anniversary
- Final Rule—Farmer Mac Corporate Governance and Standards of Conduct

Dated: July 1, 2016.

**Dale L. Aultman,**

*Secretary, Farm Credit Administration Board.*

[FR Doc. 2016–16071 Filed 7–1–16; 11:15 am]

**BILLING CODE 6705–01–P**

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## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice to All Interested Parties of the Termination of the Receivership of 10270 Williamsburg First National Bank Kingstree, South Carolina

NOTICE IS HEREBY GIVEN that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for Williamsburg First National Bank, Kingstree, South Carolina (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed receiver of Williamsburg First National Bank on July 23, 2010. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: June 30, 2016.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2016–15926 Filed 7–5–16; 8:45 am]

**BILLING CODE 6714–01–P**

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## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 1, 2016.

A. Federal Reserve Bank of Philadelphia (William Spaniel, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521. Comments can also be sent electronically to *Comments.applications@phil.frb.org:*

1. *DNB Financial Corporation,* Downingtown, Pennsylvania; to acquire East River Bank, Philadelphia, Pennsylvania.

B. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Sulphur Springs Bancshares, Inc.,* Sulphur Springs, Texas; to merge with Wills Point Financial Corporation, and indirectly, Citizens National Bank, both of Wills Point, Texas.

Board of Governors of the Federal Reserve System, June 30, 2016.

**Michele Taylor Fennell,**

*Assistant Secretary of the Board.*

[FR Doc. 2016–15938 Filed 7–5–16; 8:45 am]

**BILLING CODE 6210–01–P**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 20, 2016.

A. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *Earle Sawyer Wasserman as trustee on behalf of The Wasserman MVB Trust of 2016 and in his individual capacity, and Louise Linda Wasserman as trustee on behalf of The Wasserman MVB Trust of 2016,* all of Los Angeles, California; to acquire voting shares of Mission Valley Bancorp and thereby indirectly acquire shares of Mission Valley Bank, both of Sun Valley, California.

Board of Governors of the Federal Reserve System, June 28, 2016.

**Michele Taylor Fennell,**

*Assistant Secretary of the Board.*

[FR Doc. 2016–15878 Filed 7–5–16; 8:45 am]

**BILLING CODE 6210–01–P**

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## FEDERAL TRADE COMMISSION

**[File No. 151 0200]**

### HeidelbergCement AG and Italcementi S.p.A.; Analysis To Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement.

**SUMMARY:** The consent agreement in this matter settles alleged violations of federal law prohibiting unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent orders—embodied in the consent agreement—that would settle these allegations.

**DATES:** Comments must be received on or before July 20, 2016.

**ADDRESSES:** Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/heidelbergitalcementiconsent/* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write "HeidelbergCement AG and Italcementi S.p.A.—Consent Agreement; File No. 151 0200" on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/heidelbergitalcementiconsent/* by following the instructions on the web-based form. If you prefer to file your comment on paper, write "HeidelbergCement AG and Italcementi S.p.A.—Consent Agreement; File No. 151 0200" on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

**FOR FURTHER INFORMATION CONTACT:** James Southworth (202–326–2822), Bureau of Competition, 600 Pennsylvania Avenue NW., Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing consent orders to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 17, 2016), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before July 20, 2016. Write "HeidelbergCement AG and Italcementi S.p.A.—Consent Agreement; File No. 151 0200" on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any "[t]rade secret or any commercial or financial information which . . . is privileged or confidential," as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/heidelbergitalcementiconsent/* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write "HeidelbergCement AG and Italcementi S.p.A.—Consent Agreement; File No. 151 0200" on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

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[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before July 20, 2016. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

## Analysis of Agreement Containing Consent Orders To Aid Public Comment

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an Agreement Containing Consent Orders ("Consent Agreement") designed to remedy the anticompetitive effects resulting from the proposed acquisition of Italcementi S.p.A. ("Italcementi") by HeidelbergCement AG ("Heidelberg") (collectively, "Respondents" or "the parties"). Heidelberg and Italcementi compete to sell portland cement in the United States through their respective subsidiaries, Lehigh Hanson, Inc. ("Lehigh") and Essroc Cement Corp. ("Essroc"). Under the terms of the proposed Consent Agreement, the Respondents are required to divest Italcementi's cement plant in Martinsburg, West Virginia, along with up to ten cement terminals and all related assets to a buyer approved by the Commission (the "Martinsburg Assets"). In addition to the cement plant, the Martinsburg Assets include the following terminals that Essroc has used to distribute cement manufactured at Martinsburg: Ashland, Virginia; Baltimore, Maryland; Bessemer, Pennsylvania; Chesapeake, Virginia; Frederick, Maryland; Leetsdale, Pennsylvania; and Newport News, Virginia. Two additional Essroc terminals located in Columbus and Middlebranch, Ohio are required to be divested at the option of the buyer and subject to the prior approval of the Commission. In addition to these nine terminals that historically serve Essroc's Martinsburg cement plant, Respondents are required to divest to the buyer of the Martinsburg Assets Lehigh's cement terminal in Solvay, New York. Finally, the Consent Agreement requires Essroc to divest its cement terminal in Indianapolis, Indiana to Cemex, Inc. ("Cemex").

The Consent Agreement has been placed on the public record for thirty days to solicit comments from interested persons. Comments received during this period will become part of the public record. After thirty days, the Commission will again review the Consent Agreement and the comments received, and decide whether it should withdraw from the Consent Agreement, modify it, or make final the Decision and Order ("Order").

### The Transaction

Pursuant to a Share Purchase Agreement dated July 28, 2015, Heidelberg proposes to acquire 100% of Italcementi's voting shares in a two-step transaction. First, Heidelberg has agreed to acquire approximately 45% of Italcementi voting securities held by Italmobiliare S.p.A. The aggregate consideration for these shares totals approximately $1.9 billion. Following the closing of the Share Purchase, Heidelberg will launch a mandatory public cash tender offer for the remaining outstanding shares of Italcementi, for an expected purchase price of approximately $2.3 billion. The total value of Italcementi shares to be acquired is thus approximately $4.2 billion.

The Commission's Complaint alleges that the proposed transaction, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by substantially lessening competition in certain regional markets in the United States for the manufacture and sale of portland cement. The proposed Consent Agreement will remedy the alleged violations by preserving the competition that would otherwise be eliminated by the proposed acquisition.

### The Parties

Headquartered in Germany, Heidelberg is the second-largest global producer of cement, ready-mix concrete, and aggregates. It operates eighty-five cement plants in more than forty countries around the globe. Heidelberg operates as Lehigh in the United States, where it has twelve cement plants, one slag cement grinding facility, two cement-grinding facilities, and thirty-nine cement terminals.

Italcementi is an Italian public corporation that operates in the United States through its subsidiary, Essroc. Worldwide, Italcementi is the fourth-largest producer of cement. Essroc operates six cement plants and twenty-one cement terminals in North America.

### The Relevant Products and Structure of the Markets

In the United States, both parties manufacture and sell portland cement. Portland cement is an essential ingredient in making concrete, a cheap and versatile building material. Because portland cement has no close substitute and the cost of cement usually represents a relatively small percentage of a project's overall construction costs, few customers are likely to switch to other products in response to a small but significant increase in the price of portland cement.

The primary purchasers of portland cement are ready-mix concrete firms and producers of concrete products. These customers usually pick up portland cement from a cement company's plant or terminal in trucks. Because portland cement is a heavy and relatively cheap commodity, transportation costs limit the distance customers can economically travel to pick up cement. The precise scope of the area that can be served by a particular plant or terminal depends on a number of factors, including the density of the specific region and local transportation costs.

Due to transportation costs, cement markets are local or regional in nature. The relevant geographic markets in which to analyze the effects of the proposed acquisition on portland cement competition are (1) Baltimore-Washington and surrounding areas; (2) Richmond, VA and surrounding areas; (3) Virginia Beach-Norfolk-Newport News and surrounding areas (*i.e.,* Hampton Roads); (4) Syracuse, NY metropolitan and surrounding areas; and (5) Indianapolis and surrounding areas. Each of the relevant markets is highly concentrated, and the merger would reduce the number of competitively significant suppliers from three to two in each of the markets.

### Entry

Entry into the relevant portland cement markets would not be timely, likely, or sufficient in magnitude, character, and scope to deter or counteract the anticompetitive effects of the proposed transaction. It is costly and time consuming to enter a new geographic market. Constructing a new portland cement plant of sufficient size to be competitive would likely cost over $300 million and take more than five years to permit, design, and build; even the expansion of an existing facility would likely cost hundreds of millions of dollars and take four or more years to complete. Building competitive cement distribution terminals is also difficult and time consuming. It can take more than two years to acquire a suitable location, obtain the necessary permits, and complete construction of a competitive terminal in the relevant markets. Given the difficulties of entry, it is unlikely that any new entry could be accomplished in a timely manner in the relevant markets to defeat a likely price increase caused by the proposed acquisition.

**Effects of the Acquisition**

Unless remedied, the proposed merger would likely result in harm to competition in each of the relevant portland cement markets. Those markets are already highly concentrated. By reducing the number of significant competitors, the merger would result in an effective duopoly in each relevant market. As explained below, the evidence shows that absent the required divestitures, the merger would likely both produce unilateral and coordinated effects in the relevant markets.

For many customers in the relevant markets, the parties are the two most proximate suppliers, and other rival cement suppliers are more distant and thus have higher shipping costs. The merger would likely force these customers to pay higher prices by eliminating their ability to play one party off against the other in individual negotiations to obtain better cement prices. After the acquisition, the merged party could effectively target customers for whom the merged parties are the nearest competitors with price increases. The merged party could also target customers that prefer to buy cement from multiple sources to protect against supply disruptions with price increases because the merger would leave such customers with only two significant suppliers.

The proposed transaction is also likely to enhance the likelihood of coordinated interaction by reducing the number of significant suppliers in relevant markets that are already vulnerable to coordination. The relevant markets are vulnerable because they are highly concentrated; cement is a homogenous product; and sales are small, frequent, and usually not made pursuant to long-term contracts. The markets also exhibit a high degree of transparency: competitors are commonly aware of each other's production capacities, costs, sales volumes, prices, and customers. The evidence indicates that the merging firms already closely monitor competitors' cement pricing and sales, which facilitates coordination.

**The Consent Agreement**

The proposed Consent Agreement eliminates the competitive concerns raised by Heidelberg's proposed acquisition of Italcementi by requiring the divestiture of one party's cement operations in each of the relevant markets. Italcementi is required to divest a cement plant in Martinsburg, West Virginia, including its quarry and all other related assets, together with up to ten cement distribution terminals in Maryland, Virginia, Pennsylvania, and Ohio, to a Commission-approved buyer or buyers, at no minimum price, within 120 days of closing of the proposed transaction. Furthermore, Heidelberg is required to divest its distribution terminal in Solvay, New York, and all related assets to the Commission-approved buyer of the Martinsburg Assets, in order to remedy the competitive effects of the proposed acquisition in the Syracuse market. Finally, Essroc must divest its cement distribution terminal in Indianapolis and all related assets to Cemex within ten days of the closing of the proposed transaction to remedy the competitive effects of the proposed acquisition in the Indianapolis market.

The Commission's goal in evaluating possible purchasers of divested assets is to maintain the competitive environment that existed prior to the proposed acquisition. If the Commission determines that any of the identified buyers is not an acceptable acquirer, the proposed Order requires the parties to divest the assets to a Commission-approved acquirer within ninety days of the Commission notifying the parties that the proposed acquirer is not acceptable. If the Commission determines that the manner in which any divestiture was accomplished is not acceptable, the Commission may direct the parties, or appoint a divestiture trustee, to effect such modifications as may be necessary to satisfy the requirements of the Order.

The Consent Agreement also contains an Order to Maintain Assets to protect the viability, marketability, and competitiveness of the divestiture asset packages until the assets are divested to a buyer or buyers approved by the Commission.

To ensure compliance with the proposed Order, the Commission has agreed to appoint an Interim Monitor to ensure that Heidelberg and Italcementi comply with all of their obligations pursuant to the Consent Agreement and to keep the Commission informed about the status of the transfer of the rights and assets to appropriate purchasers.

The purpose of this analysis is to facilitate public comment on the Consent Agreement, and it is not intended to constitute an official interpretation of the proposed Decision and Order or to modify its terms in any way.

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 2016–15859 Filed 7–5–16; 8:45 am]

BILLING CODE 6750–01–P

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## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[OMB Control No. 9000–0115; Docket 2016–0053; Sequence 24]**

## Submission for OMB Review; Notification of Ownership Changes

**AGENCY:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for public comments regarding an extension to an existing OMB clearance.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning notification of ownership changes.

**DATES:** Submit comments on or before August 5, 2016.

**ADDRESSES:** Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link "Submit a Comment" that corresponds with "Information

Collection 9000–0115, Notification of Ownership Changes". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000–0115, Notification of Ownership Changes" on your attached document.

- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405–0001. ATTN: Ms. Flowers/IC 9000–0115, Notification of Ownership Changes.

*Instructions:* Please submit comments only and cite Information Collection 9000–0115, Notification of Ownership Changes, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

**FOR FURTHER INFORMATION CONTACT:** Ms. Kathyln Hopkins, Procurement Analyst, Office of Acquisition Policy, GSA, 202–969–7226 or email *kathyln.hopkins@gsa.gov.*

**SUPPLEMENTARY INFORMATION:**

### A. Purpose

Contractors who experience a change in ownership are required to provide the Government adequate and timely notice of this event, per the FAR clause at 52.215–19, Notification of Ownership Changes. The frequency of this information collection is variable, depending on changes in ownership.

A notice was published in the **Federal Register** at 81 FR 21871 on April 13, 2016. Two comments were received, but were irrelevant to the subject matter. One was aimed at promoting a product for grass-roots advocacy groups. The other simply contained a greeting.

### B. Annual Reporting Burden

*Respondents:* 138.
*Responses per Respondent:* 1.
*Annual Responses:* 138.
*Hours per Response:* 1.5.
*Total Burden Hours:* 207.

### C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0115, Notification of Ownership Changes, in all correspondence.

Dated: June 29, 2016.

**Mahruba Uddowla,**

*Acting Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.*

[FR Doc. 2016–15925 Filed 7–5–16; 8:45 am]

**BILLING CODE 6820–EP–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day–16–16AUE; Docket No. CDC–2016–0060]**

### Proposed Information Collection Submitted for Public Comment and Recommendations

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection entitled "Developing Effective Messages about Excessive Alcohol Consumption: Formative Focus Groups with Adult Drinkers and Abstainers." The CDC will use the information collected to guide the development of health communication messages.

**DATES:** Written comments must be received on or before September 6, 2016.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC–2016–0060 by any of the following methods:

*Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.

*Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

*Instructions:* All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov.*

*Please note:* All public comment should be submitted through the Federal eRulemaking portal (*Regulations.gov*) or by U.S. mail to the address listed above.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed information collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

**Proposed Project**

Developing Effective Messages about Excessive Alcohol Consumption: Formative Focus Groups with Adult Drinkers and Abstainers—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

Excessive alcohol use, including binge drinking, is responsible for approximately 88,000 deaths in the U.S. annually—including one in 10 deaths among working-age adults ages 20–64. On average, for each death due to alcohol, an individual's life is cut short by 30 years. Excessive alcohol use can also lead to motor vehicle crashes; intimate partner violence; and risky sexual behaviors, increasing the risk of HIV, other sexually transmitted infections, and unintended pregnancy. Over time, excessive alcohol use can lead to alcohol dependence, liver disease, high blood pressure, heart attack, stroke, and certain kinds of cancer. Furthermore, in 2010, excessive alcohol use cost the United States government $249 billion, or $2.05 per drink.

Binge drinking (defined as four or more drinks on an occasion for women or five or more drinks on an occasion for men) accounts for more than half of the deaths and three-quarters of the economic costs of excessive drinking. More than 38 million U.S. adults binge drink about four times a month, averaging eight drinks per binge. However, most (90%) binge drinkers are not alcohol dependent, presenting an opportunity for prevention through messages that improve voluntary compliance with recommended guidelines. States and communities can prevent binge drinking by supporting evidence-based strategies, such as those recommended by the Community Preventive Services Task Force; however, these strategies are underused. Understanding the type of information and messages that the larger community—those who drink but not excessively or abstain from drinking in addition to those who engage in binge drinking—respond to will be essential in developing the communication strategy for future outreach.

CDC plans to collect information needed to improve understanding of current knowledge, perceptions, and attitudes related to excessive alcohol consumption. Respondents will be 72 adults ages 21–64 years who agree to participate in focus group discussions of about 1.5 hours each. A total of 12 focus groups are planned in three geographically diverse locations with appropriate facilities (four focus group per location). Each focus group will involve six respondents and will be guided by a professional moderator. Through an initial screening process, CDC will also collect the information needed to assess knowledge, perceptions, and attitudes across various audience segments: Those who engage in binge drinking, those who drink but not excessively, and those who abstain from drinking.

The focus group discussions will be analyzed using qualitative tools and leverage a structured approach to thematic analysis. Findings from this information collection will guide the CDC Alcohol Program in the development and refinement of targeted messages to effectively communicate the problem of excessive alcohol use, and encourage support for effective prevention strategies. The ultimate goal of the subsequent messaging is a reduction in binge drinking, which will in turn reduce alcohol-related injuries and deaths among adults.

OMB approval is requested for one year. Participation is voluntary and there are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hr) | Total burden (in hr) |
|---|---|---|---|---|---|
| Adults aged 21–64 | Questionnaire/Screener | 288 | 1 | 5/60 | 24 |
| | Focus Group | 72 | 1 | 1.5 | 108 |
| Total | | | | | 132 |

**Jeffrey M. Zirger,**

*Health Scientist, Acting Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.*

[FR Doc. 2016–15958 Filed 7–5–16; 8:45 am]

BILLING CODE 4163–18–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Disease Control and Prevention

## Advisory Committee to the Director (ACD), Centers for Disease Control and Prevention—State, Tribal, Local and Territorial (STLT) Subcommittee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting of the aforementioned subcommittee:

*Time and Date:* 8:30 a.m.–4:00 p.m. EDT, August 11, 2016

*Place:* CDC, Building 19, Rooms 245–246, 1600 Clifton Road NE., Atlanta, Georgia 30329.

*Status:* Open to the public, limited only by the space available. The meeting room accommodates approximately 20 people. The public is welcome to participate during the public comment, which is tentatively scheduled from 3:15 to 3:35 p.m. This meeting is also available by teleconference. Please dial (888) 233–0592 and enter code 33288611.

*Purpose:* The Subcommittee will provide advice to the CDC Director through the ACD on strategies, future needs, and challenges faced by State, Tribal, Local and Territorial health agencies, and will provide guidance on opportunities for CDC.

*Matters for Discussion:* The STLT subcommittee members will discuss progress on implementation of ACD-adopted recommendations related to the health department of the future, other emerging challenges and how CDC can best support STLT health departments in the transforming health system.

The agenda is subject to change as priorities dictate.

**Contact Person for More Information**

John Auerbach, MBA, Designated Federal Officer, STLT Subcommittee, ACD, CDC, 4770 Buford Hwy, MS E70, Atlanta, GA 30341, Telephone (404) 498–0300, Email: *OSTLTSDirector@cdc.gov*. Please submit comments to *OSTLTSDirector@cdc.gov* no later than August 4, 2016.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Elaine L. Baker,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 2016–15932 Filed 7–5–16; 8:45 am]

BILLING CODE 4163–18–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Disease Control and Prevention

## Board of Scientific Counselors, National Center for Injury Prevention and Control (BSC, NCIPC)

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces, the following meeting of the aforementioned committee:

*Time and Date:* 1:00 p.m.–4:00 p.m., August 1, 2016 (CLOSED).

*Place:* Teleconference.

*Status:* The meeting as designated above will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5, U.S.C., and the Determination of the Director, Management Analysis and Services Office.

*Purpose:* The Board of Scientific Counselors makes recommendations regarding policies, strategies, objectives, and priorities; and reviews progress toward injury prevention goals and provides evidence in injury prevention-related research and programs. The Board also provides advice on the appropriate balance of intramural and extramural research, the structure, progress, and performance of intramural programs. The Board is designed to provide guidance on extramural scientific program matters, including the: (1) Review of extramural research concepts for funding opportunity announcements; (2) conduct of Secondary Peer Review of extramural research grants, cooperative agreements, and contracts applications received in response to the funding opportunity announcements as it relates to the Center's programmatic balance and mission; (3) submission of secondary review recommendations to the Center Director of applications to be considered for funding support; (4) review of research portfolios, and (5) review of program proposals. The board shall provide guidance on the National Center for Injury Prevention and Control's programs and research activities by conducting scientific peer review of intramural research and programs within the National Center for Injury Prevention and Control; by ensuring adherence to Office of Management and Budget requirements for intramural peer review; and by monitoring the overall direction, focus, and success of the National Center for Injury Prevention and Control.

Matters for Discussion: The BSC, NCIPC will meet to conduct a Secondary Peer Review of extramural research grant applications received in response to two (2) Funding Opportunity Announcements (FOAs): Evaluation of Practice-based Strategies from CDC's Rape Prevention and Education (RPE) Program to Build Evidence for Primary Prevention of Sexual Violence, FOA RFA–CE–16–005; PHS 2014–02 Omnibus Solicitation of the NIH, CDC, FDA and ACF for Small Business Innovation Research Grant Applications (Parent SBIR [R43/R44]), FOA PA–14–071. Applications will be assessed for applicability to the Center's mission and programmatic balance. Recommendations from the secondary review will be voted upon and the applications will be forwarded to the Center Director for consideration for funding support.

Agenda items are subject to change as priorities dictate.

*Contact Person for More Information:* Gwendolyn H. Cattledge, Ph.D., M.S.E.H., Deputy Associate Director for Science, NCIPC, CDC, 4770 Buford Highway NE., Mailstop F–63, Atlanta, GA 30341, Telephone (770) 488–1430.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Elaine L. Baker,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 2016–15931 Filed 7–5–16; 8:45 am]

BILLING CODE 4163–18–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Disease Control and Prevention

### [Docket Number CDC–2016–0020, NIOSH–289]

## Issuance of Final Publication: National Institute for Occupational Safety and Health (NIOSH) Quality Assurance Review of B Readers' Classifications Submitted in the Department of Labor (DOL) Black Lung Benefits Program

**AGENCY:** National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice of issuance of final publication.

**SUMMARY:** The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the availability of the following publication: *National Institute for Occupational Safety and Health (NIOSH) Quality Assurance Review of B Readers' Classifications Submitted in the Department of Labor (DOL) Black Lung Benefits Program.*

**ADDRESSES:** The document may be obtained at the following link: *http://www.cdc.gov/niosh/topics/chestradiography/breader-blacklung-benefits-qa-program.html.*

**FOR FURTHER INFORMATION CONTACT:** Dr. Eileen Storey, NIOSH, Respiratory Health Division, Surveillance Branch, 1095 Willowdale Road, Morgantown, WV 26505. Telephone (304) 285–5754 (this is not a toll-free number).

Dated: June 30, 2016.

**Frank Hearl,**

*Chief of Staff, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.*

[FR Doc. 2016–15978 Filed 7–5–16; 8:45 am]

**BILLING CODE 4163–19–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Opportunity To Co-Sponsor Office for Human Research Protections Educational Workshops

**AGENCY:** Office for Human Research Protections, Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** The Office for Human Research Protections (OHRP) announces the opportunity for non-federal public and private sector entities to co-sponsor OHRP Educational Workshops. Potential co-sponsors must have an approved Federal-wide Assurance with OHRP, be recipients of HHS grants for human subject research, and have a demonstrated interest and experience in the protection of human subjects in research. Potential co-sponsors must be willing to participate substantively in the co-sponsored activity.

**DATES:** Requests for co-sponsorships of OHRP Educational Workshops are received throughout the year at the email address below. OHRP co-sponsors a limited number of Educational Workshops with institutions each year. Requests are being received for Educational Workshops that will take place in the fall of 2016 or beyond.

**ADDRESSES:** Requests for co-sponsorships should be sent to *OHRP-EDU@HHS.GOV* with "Co-sponsorship for OHRP Educational Workshops" in the subject field or by mail to OHRP at 1101 Wootton Parkway, Suite 200, Rockville MD 20852.

**FOR FURTHER INFORMATION CONTACT:** *OHRP-EDU@HHS.GOV* or call OHRP's Division of Education and Development (DED) at 240–453–6900.

**SUPPLEMENTARY INFORMATION:**

#### Description

The Office for Human Research Protections (OHRP) provides leadership in the protection of the rights, welfare, and well-being of subjects involved in research conducted or supported by the U.S. Department of Health and Human Services (HHS). The OHRP is a program office within the Office of the Assistant Secretary for Health, Office of the Secretary, HHS.

OHRP provides clarification and guidance, develops educational programs and materials, maintains regulatory oversight, and provides advice on ethical and regulatory issues in biomedical and behavioral research. OHRP also supports the Secretary's Advisory Committee on Human Research Protections (SACHRP), which advises the Secretary of Health and Human Services on issues of human subject protections.

Consistent with OHRP's mission and the applicable statutory authority, 42 U.S.C. 289, OHRP Educational Workshops aim to provide clarification and guidance to the public on how to interpret, implement, and comply with the HHS-regulations on the protection of human subjects in research. Workshops are moderate size half-day or one-day events that typically accept between 120 and 140 attendees.

Co-sponsors will assist with workshop and agenda development, coordination, financial management, and meeting logistics in conjunction with OHRP staff.

Co-sponsors can charge registration fees to recover costs associated with the events; however, co-sponsors may not set registration fees at an amount higher than necessary to recover related conference expenses. Further, we expect co-sponsors to be solely responsible for collecting and handling any registration fees collected.

Eligibility for Co-Sponsorship: The co-sponsoring institution must have an approved Federal-wide Assurance with OHRP and be a recipient of HHS grants for human subject research. The selected co-sponsoring organization(s) shall furnish the necessary personnel, materials, services, and facilities to administer its responsibility for the workshop. These duties will be outlined in a co-sponsorship agreement with OHRP that will set forth the details of the co-sponsored activity, including the requirements that any fees collected by the co-sponsor shall be limited to the amount necessary to cover the co-sponsor's related conference expenses.

Co-sponsoring institutions will be asked to sign a Co-Sponsorship Agreement with HHS. This Co-Sponsorship Agreement does not represent an endorsement by OHRP of the co-sponsors' policies, positions, or activities. Additionally, this agreement will not affect any determination concerning activities by the co-sponsors that are regulated by OHRP.

The following Model Co-Sponsorship Agreement is presented only as an example. The assignment of duty and responsibilities in the Agreement will be discussed and agreed upon with each co-sponsor on a case by case basis and as applicable.

#### Model Co-Sponsorship Agreement

The Office for Human Research Protections (OHRP) and [co-sponsor] (if more than one co-sponsor, include all names followed by "jointly referred to as co-sponsoring institutions") agree to co-sponsor an Educational Workshop according to the understanding expressed below:

#### 1. Background

The event is an OHRP Educational Workshop/Event tentatively titled, [title].

The Workshop/Event will be held on [Date] at [Location].

The Workshop/Event is a [half/1-day] educational outreach initiative that provides education and training focusing on the HHS policies and regulations on human research protections and their applicability. The Workshop/Event is designed for professionals engaged in human subject research, including, but not limited to, institutional review board (IRB) chairs, members and staff, investigators and research staff, and institutional officials.

The co-sponsoring institution for this educational activity, [co-sponsor], has an approved Federal-wide Assurance with OHRP and is a recipient of HHS grants for human subject research. OHRP has collaborated with [co-sponsor] (if more than one co-sponsor, include, [co-sponsor], and others) to develop a comprehensive agenda that addresses the provisions of the HHS Protection of Human Subjects Regulations, 45 CFR part 46, and the ethical principles of The Belmont Report.

OHRP fulfills its mission pursuant to 42 U.S.C. 289 by providing an education program where clarification and guidance with respect to ethical issues raised in connection with biomedical or behavioral research involving human subjects can be addressed. This workshop/event co-sponsored with [co-sponsor] is an important component of the OHRP educational program for fiscal year [year].

#### 2. Responsibilities for Developing the Event

OHRP and [co-sponsor] have collaborated, and will continue to collaborate, on all phases of the development of the workshop/event, including:

- Establishing a planning committee;
- Identifying program objectives;
- Developing, reviewing and approving the final agenda;
- Preparing web-based advertising; and
- Conducting the workshop/event.

[Co-sponsor] has or will:

- Advertise and promote the workshop/event to achieve an attendance of around 120 or more individual attendants;
- Secure an appropriate facility for the Workshop/Event;
- Provide audio-visual equipment;
- Handle or support the collection of registration fees, if any;
- Provide administrative staff to conduct registration, obtain accreditations for continuing education units as appropriate, and handle all logistical support leading up to and at the Workshop/Event;
- Provide travel expenses for additional academic faculty where applicable;
- Prepare Workshop/Event materials for participants as appropriate;
- Distribute and collect from guest speakers signed authorization forms (wording and format provided by OHRP) that permit OHRP to retain and re-use speakers' presentations as well as any video-recordings of the presentations obtained in the course of the Workshop/Event for educational purposes;
- Provide OHRP with copies of guest speakers' slide presentations (slides and any associated video-recordings) as well as video-recordings of the workshop/event sessions, if any, no later than 4 months after the workshop/event;
- Produce and share with OHRP a summary and evaluation report as well as the list of participants with their email information.

OHRP will provide program support to [co-sponsor], provide advertising, and fund the travel of HHS staff to serve as faculty. [Co-sponsor] will be responsible for all other costs of the workshop/event.

### 3. Registration Fees and Other Charges

[Co-sponsor] has established a tentative registration fee schedule, *i.e.,* $[XXX] for general attendees [$XXX] for early registration. These registration fees are no higher than necessary for [co-sponsor] to recover its share of the costs for co-sponsoring this event and may be lowered, as the arrangements for the workshop/event are made and expenses are incurred.

HHS staff will be serving as faculty members and resource people. There is no attendance fee for HHS staff.

[Co-sponsor] does not intend to sell educational materials pertaining to this event.

### 4. Independently Sponsored Portions of Event

[Co-sponsor] may decide to independently provide food for lunch and/or at breaks for the workshop/event attendees as a discrete portion of the event. The Workshop/Event agenda will indicate that this portion of the event is independently sponsored by [co-sponsor]. OHRP staff and resources will not be used to develop, promote, or otherwise support this portion of the event.

### 5. Fund Raising

[Co-sponsor] will make clear in any solicitation for funds to cover its share of the event costs that it, not OHRP, is asking for the funds. [Co-sponsor] will not imply that OHRP endorses any fund raising activities in connection with the workshop/event. [Co-sponsor] will make clear to donors that any gift will go solely toward defraying the sponsorship expenses of the event, not to OHRP.

### 6. Promotional Activity

[Co-sponsor] will not use the event primarily as a vehicle to sell or promote products or services. [Co-sponsor] will ensure that any incidental promotional activity does not imply that OHRP endorses any of its products or services. [Co-sponsor] will make reasonable efforts, subject to OHRP review, to segregate any incidental promotional activity from the main activities of the event.

### 7. Event Publicity and Endorsements

[Co-sponsor] will not use the name of OHRP or any of its components, except in factual publicity for the specific event. Factual publicity includes dates, times, locations, purposes, agendas, fees, and speakers involved with the event. Such factual publicity shall not imply that the involvement of OHRP in the event serves as an endorsement of the general policies, activities, or products of [co-sponsor] where confusion could result, publicity should be accompanied by a disclaimer to the effect that no endorsement by OHRP is intended. [Co-sponsor] will clearly state on the agenda that OHRP did not provide funding for the breaks and lunch at the forum. [Co-sponsor] will state on the agenda which organization provided the funding for the breaks and lunch at the forum. [Co-sponsor] will clear all publicity materials for the event with OHRP to ensure compliance with this paragraph.

### 8. Records

Records concerning the event shall account fully and accurately for the financial commitments and expenditures of OHRP and [co-sponsor]. Such records shall reflect, at a minimum, the amounts, sources, and uses of all funds.

### 9. Public Availability

This co-sponsorship agreement, as well as the financial records described in paragraph 8, shall be publicly available upon request.

### 10. Co-Sponsorship Guidance

OHRP and [co-sponsor] will abide by the legal memorandum of August 8, 2002, "Co-Sponsorship Guidance," issued by the HHS Designated Agency Ethics Official.

*Evaluation Criteria:* After engaging in exploratory discussions with potential co-sponsors, OHRP will select the co-sponsor or co-sponsors that would best fulfill OHRP's mission. Evaluation may include the following criteria:

- Qualifications and capability to fulfill co-sponsorship responsibilities;
- Suitability of the location of the proposed event in terms of the overall geographical distribution of OHRP workshops;
- Potential for reaching, generating, and engaging adequate number of attendees from local stakeholders;
- Availability and description of facilities needed to support the workshop;
- Availability of administrative support for the logistics of hosting such workshops.

Dated: June 29, 2016.

**Karen B. DeSalvo,**

*Acting Assistant Secretary for Health.*

[FR Doc. 2016–16007 Filed 7–5–16; 8:45 am]

BILLING CODE 4150–36–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Opportunity To Co-Sponsor Office for Human Research Protections Research Community Forums

**AGENCY:** Office for Human Research Protections, Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** The Office for Human Research Protections (OHRP) announces the opportunity for non-federal public

and private sector entities to co-sponsor OHRP Research Community Forums (RCFs). Potential co-sponsors must have an approved Federal-wide Assurance with OHRP, be recipients of HHS grants for human subject research, and have a demonstrated interest and experience in the protection of human subjects in research. Potential co-sponsors must also be capable of sponsoring and managing various discrete sessions or events associated with the RCF and be willing to participate substantively in the co-sponsored activity.

**DATES:** Requests for co-sponsorships of RCFs are received throughout the year at the address below. OHRP expects to co-sponsor up to four RCFs each year. Requests are being received for RCFs that will take place in 2018 or beyond.

**ADDRESSES:** Requests for co-sponsorships should be sent to *OHRP-EDU@HHS.GOV* with "Co-sponsorship for OHRP RCFs" in the subject field or by mail to OHRP at 1101 Wootton Parkway, Suite 200, Rockville MD 20852.

**SUPPLEMENTARY INFORMATION:**

## Description

The Office for Human Research Protections (OHRP) provides leadership in the protection of the rights, welfare, and well-being of subjects involved in research conducted or supported by the U.S. Department of Health and Human Services (HHS). The OHRP is a program office within the Office of the Assistant Secretary for Health, Office of the Secretary, HHS.

OHRP provides clarification and guidance, develops educational programs and materials, maintains regulatory oversight, and provides advice on ethical and regulatory issues in biomedical and behavioral research. OHRP also supports the Secretary's Advisory Committee on Human Research Protections (SACHRP), which advises the Secretary of Health and Human Services on issues of human subject protections.

Consistent with OHRP's mission and the applicable statutory authority, 42 U.S.C. 289, the Research Community Forum (RCF) provides an educational opportunity to discuss with the public and to provide clarification and guidance regarding contemporary ethical issues in the protection of human research participants. The Research Community Forum (RCF) consists of two educational activities: A 1-day conference (RCF–C) focused on ethical concerns and regulatory issues pertaining to contemporary issues in human research protections, and a 1-day interactive workshop (RCF–W) focused on the interpretation and application of HHS regulations and policies. OHRP will provide a small co-sponsoring financial contribution to support the RCF.

Co-sponsors will assist with conference and agenda development, coordination, financial management, and meeting logistics in conjunction with OHRP staff.

Co-sponsors can charge registration fees to recover costs associated with the events; however, co-sponsors may not set registration fees at an amount higher than necessary to recover related conference expenses. Further, we expect co-sponsors to be solely responsible for collecting and handling any registration fees collected.

*Eligibility for Co-Sponsorship:* The co-sponsoring institution must have an approved Federal-wide Assurance with OHRP and be a recipient of HHS grants for human subject research. The selected co-sponsoring organization(s) shall furnish the necessary personnel, materials, services, and facilities to administer its responsibility for the conference. These duties will be outlined in a co-sponsorship agreement with OHRP that will set forth the details of the co-sponsored activity, including the requirements that any fees collected by the co-sponsor shall be limited to the amount necessary to cover the co-sponsor's related conference expenses.

Co-sponsoring institutions will be asked to sign a Co-Sponsorship Agreement with HHS. This Co-Sponsorship Agreement does not represent an endorsement by OHRP of the co-sponsors' policies, positions, or activities. Additionally, this Agreement will not affect any determination concerning activities by the co-sponsors that are regulated by OHRP.

The following Model Co-Sponsorship Agreement is presented only as an example. The assignment of duty and responsibilities in the Agreement will be discussed and agreed upon with each o-sponsor on a case by case basis and as applicable.

## Model Co-Sponsorship Agreement

The Office for Human Research Protections (OHRP) and [co-sponsor] (if more than one co-sponsor, include all names followed by "jointly referred to as co-sponsoring institutions") agree to co-sponsor a Research Community Forum according to the understanding expressed below:

### *1. Background*

The event is an OHRP Research Community Forum (RCF) tentatively titled, [Title].

The forum will be held on [Date] at [Location].

The Forum is a 2-day educational outreach initiative that provides a 1-day conference focusing on ethical and regulatory issues pertaining to hot-button or topical matter in human research protections, and a 1-day interactive workshop focusing on the HHS regulations and policies on human research protections and their applicability. The Forum features distinguished faculty members from academia and the Federal Government. It is designed for professionals engaged in or who have interest in the protection of human subjects in research. These may include bioethicists, academics, institutional review board (IRB) chairs, members and staff, investigators and research staff, and institutional officials.

The co-sponsoring institution for this educational event, [co-sponsor], has an approved Federal-wide Assurance with OHRP and is a recipient of HHS grants for human subject research. OHRP has collaborated with [co-sponsor] (if more than one co-sponsor, include: ", [co-sponsor], and others.") to develop a comprehensive agenda that addresses the provisions of the HHS Protection of Human Subjects Regulations, 45 CFR part 46, and the ethical principles of The Belmont Report.

OHRP fulfills its mission, pursuant to 42 U.S.C. 289, by providing an education program where clarification and guidance with respect to ethical issues raised in connection with biomedical or behavioral research involving human subjects can be addressed. This forum co-sponsored with [co-sponsor] is an important component of the OHRP educational program for fiscal year [year].

### *2. Responsibilities for Developing the Event*

OHRP and [Co-sponsor] have collaborated, and will continue to collaborate, on all phases of event planning, including:

- Establishing a planning committee;
- Identifying program objectives;
- Developing, reviewing and approving the final agenda; and
- Preparing web-based advertising.

[Co-sponsor] has or will:

- Create an event Web site;
- Secure a facility for the Forum (conference and workshop);
- Provide audio-visual equipment;
- Arrange for professional video-recording of presentation(s) by speaker(s) [XXX] at OHRP's request;
- Handle or support the collection of registration fees;
- Provide administrative staff to develop the program, conduct

registration, obtain accreditations for continuing education units as appropriate and handle all logistical support leading up to and at the forum;

- Provide travel expenses for additional academic faculty;
- Duplicate all forum materials and prepare participant notebook as appropriate;
- Distribute and collect from speakers signed authorization forms (wording and format provided by OHRP) that permit OHRP to retain and re-use speakers' presentations as well as any video recordings of the presentations obtained in the course of the Forum for educational purposes;
- Provide OHRP with copies of the speakers' slide presentations (slides and any associated video recordings), as well as any video-recordings of conference presentations obtained in the course of the Forum, no later than 4 months after the RCF;
- Produce and share with OHRP a summary and evaluation report as well as the list of participants with their email information.

*3. Registration Fees and Other Charges*

[Co-sponsor] has established a tentative registration fee schedule, $[Amount] for the 1-day conference; $[Amount] for the 1-day workshop; and $[Amount] when registering for both conference and workshop. These registration fees are no higher than necessary for [co-sponsor] to recover its share of the costs for co-sponsoring this event and may be lowered, as the arrangements for the forum event are made and expenses are incurred.

HHS staff will be serving as faculty members and resource people. There is no attendance fee for HHS staff.

[Co-sponsor] does not intend to sell educational materials pertaining to this event.

*4. Independently Sponsored Portions of Event*

[Co-sponsor] may decide to independently provide food for lunch and/or at breaks for the Workshop/Event attendees as a discrete portion of the event. The workshop/event agenda will indicate that this portion of the event is independently sponsored by [co-sponsor]. OHRP staff and resources will not be used to develop, promote, or otherwise support this portion of the event.

*5. Fund Raising*

[Co-sponsor] will make clear in any solicitation for funds to cover its share of the event costs that it, not OHRP, is asking for the funds. [Co-sponsor] will not imply that OHRP endorses any fund raising activities in connection with the Forum. [Co-sponsor] will make clear to donors that any gift will go solely toward defraying the sponsorship expenses of the event, not to OHRP.

*6. Promotional Activity*

[Co-sponsor] will not use the event primarily as a vehicle to sell or promote products or services. [Co-sponsor] will ensure that any incidental promotional activity does not imply that OHRP endorses any of its products or services. [Co-sponsor] will make reasonable efforts, subject to OHRP review, to segregate any incidental promotional activity from the main activities of the event.

*7. Event Publicity and Endorsements*

[Co-sponsor] will not use the name of OHRP or any of its components, except in factual publicity for the specific event. Factual publicity includes dates, times, locations, purposes, agendas, fees, and speakers involved with the event. Such factual publicity shall not imply that the involvement of OHRP in the event serves as an endorsement of the general policies, activities, or products of [co-sponsor]; where confusion could result, publicity should be accompanied by a disclaimer to the effect that no endorsement by OHRP is intended. [Co-sponsor] will clearly state on the agenda that OHRP did not provide funding for the breaks and lunch at the forum. [Co-sponsor] will state on the agenda which organization provided the funding for the breaks and lunch at the forum. [Co-sponsor] will clear all publicity materials for the event with OHRP to ensure compliance with this paragraph.

*8. Records*

Records concerning the event shall account fully and accurately for the financial commitments and expenditures of OHRP and [co-sponsor]. Such records shall reflect, at a minimum, the amounts, sources, and uses of all funds.

*9. Public Availability*

This co-sponsorship agreement, as well as the financial records described in paragraph 8, shall be publicly available upon request.

*10. Co-sponsorship Guidance*

OHRP and [co-sponsor] will abide by the legal memorandum of August 8, 2002, "Co-Sponsorship Guidance," issued by the HHS Designated Agency Ethics Official.

*Evaluation Criteria:* After engaging in exploratory discussions with potential co-sponsors, OHRP will select the co-sponsor or co-sponsors that would best fulfill OHRP's mission. Evaluation may include the following criteria:

- Qualifications and capability to fulfill co-sponsorship responsibilities;
- Suitability of the location of the proposed event in terms of the overall geographical distribution of OHRP–RCFs;
- Interests in human research protections that complement and promote OHRP's interests and agenda;
- Creativity and innovations related to the human research protections topics proposed to cover;
- Creativity in enhancing the conference, including ideas for improving the event based on prior RCFs;
- Potential for reaching, generating, and engaging attendees from diverse key stakeholders;
- Availability and description of facilities needed to support the RCF;
- Availability of administrative expertise, experience, and support (including accounting and event management) for the logistics of hosting events of a similar scale.

**FOR FURTHER INFORMATION CONTACT:** *OHRP-EDU@HHS.GOV* or call OHRP's Division of Education and Development (DED) at 240–453–6900.

Dated: June 29, 2016.

**Karen DeSalvo,**

*Acting Assistant Secretary for Health.*

[FR Doc. 2016–16004 Filed 7–5–16; 8:45 am]

**BILLING CODE 4150–36–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Indian Health Service

### Request for Public Comment: 60-Day Information Collection: Application for Participation in the IHS Scholarship Program

**AGENCY:** Indian Health Service, HHS.

**ACTION:** Notice and request for comments. Request for extension of approval.

**SUMMARY:** In compliance the Paperwork Reduction Act of 1995, the Indian Health Service (IHS) invites the general public to comment on the information collection titled, "Application for Participation in the IHS Scholarship Program," Office of Management and Budget (OMB) Control No. 0917–0006. IHS is requesting OMB to approve an extension for this collection, which expires on September 30, 2016.

**DATES:** *Comment Due Date:* September 6, 2016. Your comments regarding this information collection are best assured of having full effect if received within 60 days of the date of this publication.

**ADDRESSES:** Send your written comments, requests for more information on the collection, or requests to obtain a copy of the data collection instrument and instructions to Mr. Robert Pittman by one of the following methods:

- *Mail:* Robert E. Pittman, BPharm, MPH, Acting Chief, Scholarship Branch Director, Division of Health Professions Support, Indian Health Service, 5600 Fishers Lane, Mail Stop: OHR 11E53A, Rockville, MD 20857.
- *Phone:* (301) 443–6197.
- *Email: Robert.Pittman@ihs.gov.*
- *Fax:* 301–443–6048.

**SUPPLEMENTARY INFORMATION:** This previously approved information collection project was last published in the **Federal Register** (78 FR 49532) on August 14, 2013 and allowed 30 days for public comment. No public comment was received in response to the notice. The purpose of this notice is to allow 60 days for public comment. A copy of the supporting statement is available at *www.regulations.gov* (see Docket ID IHS–2016–0005).

*Information Collection: Title:* "Application for Participation in the IHS Scholarship Program," OMB Control No. 0917–0006. *Type of Information Collection Request:* Extension of the currently approved information collection "Application for Participation in the IHS Scholarship Program," OMB Control No. 0917–0006. *Form Number(s):* IHS–856–3, IHS–856–5 through 856–19, IHS–856–21 through 856–24, IHS–817, and IHS–818 are retained for use by the IHS Scholarship Program (IHSSP) as part of this current information collection request. Reporting forms are found on the IHS Web site at *www.ihs.gov/scholarship. Need and Use of Information Collection:* The IHS Scholarship Branch needs this information for program administration and uses the information to: solicit, process, and award IHS Pre-graduate, Preparatory, and/or Health Professions Scholarship recipients; monitor the academic performance of recipients; and to place recipients at payback sites. The IHSSP application is electronically available on the internet at the IHS Web site at: *https://www.ihs.gov/scholarship/applynow/. Affected Public:* Individuals, not-for-profit institutions and State, local or Tribal Governments. *Type of Respondents:* Students pursuing health care professions.

The table below provides: Types of data collection instruments, Estimated number of respondents, Number of responses per respondent, Annual number of responses, Average burden hour per response, and Total annual burden hours.

| Data collection instrument(s) | Number of respondents | Responses per respondent | Total annual response | Burden hour per response * | Annual burden hours |
|---|---|---|---|---|---|
| Faculty/Employer Evaluation (IHS–856–3) | 1,500 | 2 | 3,000 | 0.42 (25 min) | 1,250 |
| Delinquent Federal Debt (IHS–856–5) | 1,500 | 1 | 1,500 | 0.13 (8 min) | 200 |
| Course Curriculum Verification (IHS–856–6) | 1,500 | 1 | 1,500 | 0.70 (42 min) | 1,050 |
| Verification of Acceptance or Decline of Award (IHS–856–7) | 350 | 1 | 350 | 0.13 (8 min) | 47 |
| Recipient's Initial Program Progress Report (IHS–856–8) | 1,200 | 1 | 1,200 | 0.13 (8 min) | 160 |
| Notification of Academic Problem (IHS–856–9) | 50 | 1 | 50 | 0.13 (8 min) | 7 |
| Change of Status (IHS–856–10) | 50 | 1 | 50 | .045 (25 min) | 21 |
| Request for Approval of Deferment (IHS–856–11) | 20 | 1 | 20 | 0.13 (8 min) | 3 |
| Preferred Placement (IHS–856–12) | 150 | 1 | 150 | 0.50 (30 min) | 75 |
| Notice of Impending Graduation (IHS–856–13) | 120 | 1 | 120 | 0.17 (10 min) | 20 |
| Notification of Deferment Program (IHS–856–14) | 20 | 1 | 20 | 0.13 (8 min) | 3 |
| Placement Update (IHS–856–15) | 120 | 1 | 120 | 0.18 (11 min) | 22 |
| Annual Status Report (IHS–856–16) | 200 | 1 | 200 | 0.25 (15 min) | 50 |
| Extern Site Preference Request (IHS–856–17) | 300 | 1 | 300 | 0.13 (8 min) | 40 |
| Request for Extern Travel Reimbursement (IHS–856–18) | 150 | 1 | 150 | 0.10 (6 min) | 15 |
| Lost Stipend Payment (IHS–856–19) | 50 | 1 | 50 | 0.13 (8 min) | 7 |
| Summer School Request (IHS–856–21) | 100 | 1 | 100 | 0.10 (6 min) | 10 |
| Change of Name or Address (IHS–856–22) | 20 | 1 | 20 | 0.13 (8 min) | 3 |
| Request for Credit Validation (IHS–856–23) | 30 | 1 | 30 | 0.10 (6 min) | 3 |
| Faculty/Advisor Evaluation (IHS–856–24) | 1,500 | 2 | 3,000 | 0.42 (25 min) | 1,250 |
| Scholarship Program Agreement (IHS–817) | 175 | 1 | 175 | 0.16 (10 min) | 29 |
| Health Professions Contract (IHS–818) | 225 | 1 | 225 | 0.16 (10 min) | 38 |
| Total | | | 12,580 | | 4,303 |

* For ease of understanding, burden hours are also provided in actual minutes.

There are no direct costs to respondents other than their time to voluntarily complete the forms and submit them for consideration. The estimated cost in time to respondents, as a group, is $46,386 [4,303 burden hours × $10.78 per hour (2016 GS–3 hourly base pay rate)]. This total dollar amount is based upon the number of burden hours per data collection instrument, rounded to the nearest dollar.

*Requests for Comments:* Your written comments and/or suggestions are invited on one or more of the following points:

(a) Whether the information collection activity is necessary to carry out an agency function;

(b) whether the agency processes the information collected in a useful and timely fashion;

(c) the accuracy of the public burden estimate (the estimated amount of time needed for individual respondents to provide the requested information);

(d) whether the methodology and assumptions used to determine the estimates are logical;

(e) ways to enhance the quality, utility, and clarity of the information being collected; and

(f) ways to minimize the public burden through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

*Comment Due Date:* Comments regarding this information collection are best assured of having full effect if received within 60 days of the date of this publication.

Dated: June 24, 2016.

**Elizabeth A. Fowler,**

*Deputy Director for Management Operations, Indian Health Service.*

[FR Doc. 2016–16008 Filed 7–5–16; 8:45 am]

**BILLING CODE 4165–16–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Government-Owned Inventions; Availability for Licensing

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

**SUMMARY:** The invention listed below is co-owned by an agency of the U.S. Government and is available for licensing and/or co-development in the U.S. in accordance with 35 U.S.C. 209 and 37 CFR part 404 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing and/or co-development.

**ADDRESSES:** Invention Development and Marketing Unit, Technology Transfer Center, National Cancer Institute, 9609 Medical Center Drive, Mail Stop 9702, Rockville, MD 20850–9702.

**FOR FURTHER INFORMATION CONTACT:** Information on licensing and co-development research collaborations, and copies of the U.S. patent applications listed below may be obtained by contacting: Attn. Invention Development and Marketing Unit, Technology Transfer Center, National Cancer Institute, 9609 Medical Center Drive, Mail Stop 9702, Rockville, MD 20850–9702, Tel. 240–276–5515 or email *ncitechtransfer@mail.nih.gov.* A signed Confidential Disclosure Agreement may be required to receive copies of the patent applications.

**SUPPLEMENTARY INFORMATION:** Technology description follows.

*Title of Invention:* Shark Antibodies that Target Tumor and Viral Antigens.

*Description of Technology:* Shark V–NAR (*V*ariable *N*ew *A*ntigen *R*eceptor) antibodies are an emerging class of therapeutic candidates. As single domain (heavy chain) antibodies with an extensive antigen-binding repertoire, shark V–NAR antibodies may provide advantages over traditional antibodies. Specifically, the smaller size of shark V–NAR antibodies may provide increased solubility, thermal stability, refolding capacity, and the ability to recognize epitopes that are sterically hindered from recognition by larger antibodies, but without loss of specificity in antigen-binding.

Researchers at the National Cancer Institute's Laboratory of Molecular Biology (NCI LMB) have developed an immunological platform that includes the development of a shark V–NAR antibody phage display library, isolation of specific antibodies that bind to several tumor and viral antigens from the library, and the development of the specific antibodies for treatment of cancer or viral infection. Specific antibody targets for binders include tumor-specific antigens (GPC3 [*Clone F1*], PD1 [*Clone A1*], HER2 [*Clones A6/A7*]), and viral antigens (MERS [*Clones A3, A7, A8, B4, and B5*] and SARS [*Clone O1*]).

Anti-glypican 3 (GPC3) V–NAR, Clone F1, is an antibody of immediate interest since it has already shown specific binding to GPC3-expressing tumor cells *in vitro.* Thus, anti-GPC3 V–NAR represents a viable candidate for development of an antibody-toxin/drug conjugate (ADC and immunotoxin), a bispecific antibody or a chimeric antigen receptor (CAR) against GPC3-expressing tumor cells.

*Potential Commercial Applications:*

- Therapeutic Uses
  - ○ Use as unconjugated antibodies
  - ○ Use as targeting moieties for immunoconjugates such as CARs, ADCs, Immunoconjugates, bispecific antibodies, etc.
- Diagnostic agent for detecting and monitoring target-expressing malignancies

*Value Proposition:*

- Potential to be first to market with high specificity and binding to targets resulting in less non-specific cell killing, therefore fewer potential side-effects for the patient
- Small size of antibodies enhances stability, solubility, and target recognition

*Development Stage:*

- *In-vitro* data—Shark/Human anti-GPC3 chimera can bind to GPC3-positive tumor cells
- *In-vivo* testing

*Inventor(s):* Mitchell Ho (NCI), *et al.*

*Intellectual Property:* US Provisional Application 62/334,194 (HHS Reference No. E–113–2016/0–US–01) filed May 10, 2016 entitled "Variable New Antigen Receptor (VNAR) Antibodies and Antibody Conjugates Targeting Tumor and Viral Antigens".

*Collaboration Opportunity:* Researchers at the NCI seek parties interested in licensing or co-developing shark V–NAR antibodies and/or conjugates for cancer therapeutics and/or diagnostics.

*Contact Information:* Requests for copies of the patent application or inquiries about licensing, research collaborations, and co-development opportunities should be sent to John D. Hewes, Ph.D., email: *john.hewes@nih.gov.*

Dated: June 28, 2016.

**John D. Hewes,**

*Technology Transfer Specialist, Technology Transfer Center, National Cancer Institute.*

[FR Doc. 2016–15898 Filed 7–5–16; 8:45 am]

**BILLING CODE 4140–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Opportunities for Collaborative Research at the NIH Clinical Center (U01).

*Date:* August 2, 2016.

*Time:* 10:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

*Contact Person:* Frank S. De Silva, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room #3E72A National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9823, Rockville, MD 20892–9823, (240) 669–5023, *fdesilva@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 29, 2016.

**Natasha M. Copeland,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2016–15883 Filed 7–5–16; 8:45 am]

**BILLING CODE 4140–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Topics in Non-HIV Microbial Diagnostic and Detection Research.

*Date:* July 11, 2016.

*Time:* 4:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Gagan Pandya, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, RM 3200, MSC 7808, Bethesda, MD 20892, 301–435–1167, *pandyaga@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846– 93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 29, 2016.

**David Clary,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2016–15880 Filed 7–5–16; 8:45 am]

**BILLING CODE 4140–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Center for Advancing Translational Sciences (NCATS); Notice of Organizational Change

**SUMMARY:** The National Center for Advancing Translational Sciences (NCATS), of the National Institutes of Health (NIH), is seeking public comment regarding its proposal to reorganize its Office of Policy, Communications, and Strategic Alliances.

**DATES:** Any interested person may file written comments by sending an email to *NCATSReorgComments@nih.gov* by July 22, 2016. The statement should include the individual's name, and when applicable, professional affiliation. NCATS will respond to comments by email no later than July 29, 2016.

**ADDRESSES:** The following email address has been established for questions and/or comments on the reorganization: *NCATSReorgComments@nih.gov.*

**FOR FURTHER INFORMATION CONTACT:** Nicole Martino, Management Analyst, National Center for Advancing Translational Sciences, *NCATSReorgComments@nih.gov,* 301–443–8358

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), NCATS will launch public Web site information at *https://ncats.nih.gov/about/center/org/reorg* on July 8, 2016, to encourage further public discussion of the proposal to reorganize its Office of Policy, Communications and Strategic Alliances. NCATS also will provide information via its Facebook page (*https://www.facebook.com/ncats.nih.gov*) and Twitter account (*https://twitter.com/ncats_nih_gov*). The proposal is aimed at better reflecting NCATS' alignment and priorities while ensuring the Center remains a leader in public education and community involvement related to translational science.

Dated: June 28, 2016.

**Keith Lamirande,**

*Associate Director for Administration, NCATS, NIH.*

[FR Doc. 2016–15865 Filed 7–5–16; 8:45 am]

**BILLING CODE 4140–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Fellowship: Infectious Diseases and Microbiology.

*Date:* July 28–29, 2016.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Wyndham Grand Chicago Riverfront, 71 East Wacker Drive, Chicago, IL 60601.

*Contact Person:* Alexander D. Politis, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3210, MSC 7808, Bethesda, MD 20892, (301) 435–1150, *politisa@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Review of National Center for Advanced ESR Technology (ACERT).

*Date:* August 4–6, 2016.

*Time:* 8:00 a.m. to 1:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The Statler Hotel, 130 Statler Drive, Ithaca, NY 14853.

*Contact Person:* Nuria E. Assa-Munt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4164, MSC 7806, Bethesda, MD 20892, (301) 451–1323, *assamunu@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 29, 2016.

**David Clary,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2016–15881 Filed 7–5–16; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Government-Owned Inventions; Availability for Licensing

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

**SUMMARY:** The invention listed below is owned by an agency of the U.S. Government and is available for licensing in the U.S. in accordance with 35 U.S.C. 209 and 37 CFR part 404 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

**ADDRESSES:** Invention Development and Marketing Unit, Technology Transfer Center, National Cancer Institute, 9609 Medical Center Drive, Mail Stop 9702, Rockville, MD 20850–9702.

**FOR FURTHER INFORMATION CONTACT:** Information on licensing, and copies of the U.S. patent applications listed below may be obtained by contacting: Attn. Invention Development and Marketing Unit, Technology Transfer Center, National Cancer Institute, 9609 Medical Center Drive, Mail Stop 9702, Rockville, MD 20850–9702, Tel. 240–276–5515 or email *ncitechtransfer@mail.nih.gov.* A signed Confidential Disclosure Agreement may be required to receive copies of the patent applications.

**SUPPLEMENTARY INFORMATION:** Technology description follows.

*Title of Invention:* Improved Fixative for Paraffin-Embedded Tissue Samples.

#### Description of Technology

Tissues samples collected during medical procedures, such as biopsies, are used to diagnose a wide variety of diseases. Before diagnosis, patient samples are typically processed by fixation and paraffin embedding. This fixation/embedding process is used to preserve tissue morphology and histology for subsequent evaluation. Unfortunately, most fixative agents damage or destroy nucleic acids (RNA and DNA) and proteins, thereby potentially impairing diagnostic assessment of tissue.

Researchers in the National Cancer Institute's Laboratory of Pathology have developed an improved tissue fixative solution that is formaldehyde-free. This fixative, BE70, significantly improves DNA, RNA, and protein biomolecule integrity in histological samples compared to traditional fixatives. Additionally, BE70 is compatible with current protocols and does not alter tissue processing. *In vitro an in vivo* data are available and the fixative has been tested on paraffin-embedded samples.

#### Potential Commercial Applications

- Improves integrity of fixed tissue samples.
- Improves RNA/DNA quality in fixed tissue samples.
- Non-cross linking, improves protein quality.

#### Value Proposition

- There is substantial interest in new fixatives to replace neutral buffered formalin (a carcinogen) as primary fixative agent for surgical pathology.
- BE70 overcomes several limitations of other fixatives, including cost and disposal issues.
- Could be formulated as a concentrate, and marketed as an additive (to be added during dilution of ethanol).

#### Development Stage

*In vivo* data: YES.

#### Inventor(s)

Stephen M. Hewitt (NCI), Joon-Yong Chung (NCI), Candice D. Perry (Leidos Biomedical LLC).

#### Intellectual Property

HHS Reference No. E–139–2015/0–US–01 US Provisional Patent Application 62/255,030 (HHS Reference No. E–139–2015/0–US–01) filed November 13, 2015, entitled "Fixative and Methods of Use".

#### Publications

Perry C, Chung JY, et al. *J Histochem Cytochem.* 2016 May 24; E-pub [PMID: 27221702].

#### Contact Information

Requests for copies of the patent application or inquiries about licensing, research collaborations, and co-development opportunities should be sent to John D. Hewes, Ph.D., email: *john.hewes@nih.gov.*

Dated: June 28, 2016.

**John D. Hewes,**

*Technology Transfer Specialist, Technology Transfer Center, National Cancer Institute.*

[FR Doc. 2016–15890 Filed 7–5–16; 8:45 am]

**BILLING CODE 4140–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Aging Special Emphasis Panel; Delirium Research Networks.

*Date:* July 29, 2016.

*Time:* 2:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Isis S. Mikhail, DRPH, MD, MPH, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2W200, Bethesda, MD 20892, 301–402–7704. *mikhaili@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: June 29, 2016.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2016–15882 Filed 7–5–16; 8:45 am]

**BILLING CODE 4140–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel; R13 Conference Grant Review.

*Date:* July 21, 2016.

*Time:* 11:00 a.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

*Contact Person:* Susan O. McGuire, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Blvd., Room 4245, Rockville, MD 20852, 301–435–1426, *mcguireso@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: June 29, 2016.

**Natasha M. Copeland,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2016–15884 Filed 7–5–16; 8:45 am]

BILLING CODE 4140–01–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Neurological Disorders and Stroke, Special Emphasis Panel; Recording and Modulation in the Human CNS.

*Date:* July 1, 2016.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Admiral Fell Inn, 888 South Broadway, Baltimore, MD 21231.

*Contact Person:* Ernest Lyons, Ph.D., Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3204, MSC 9529, Bethesda, MD 20892–9529, 301–496–4056, *lyonse@ninds.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: June 29, 2016.

**Sylvia L. Neal,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2016–15885 Filed 7–5–16; 8:45 am]

BILLING CODE 4140–01–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Aging Special Emphasis Panel; Epigenomics of Aging.

*Date:* July 26, 2016.

*Time:* 10:00 a.m. to 1:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Kimberly Firth, Ph.D., National Institutes of Health National Institute on Aging Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7702, *firthkm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: June 29, 2016.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2016–15879 Filed 7–5–16; 8:45 am]

BILLING CODE 4140–01–P

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[Docket No. USCG–2016–0106]**

### Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625–0104

**AGENCY:** Coast Guard, DHS.

**ACTION:** Thirty-day notice requesting comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of a revision to the following collection of information: 1625–0104, Barges Carrying Bulk Hazardous Materials. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

**DATES:** Comments must reach the Coast Guard and OIRA on or before August 5, 2016.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number [USCG–2016–0106] to the Coast Guard using the Federal eRulemaking Portal at *http://www.regulations.gov.* Alternatively, you may submit comments to OIRA using one of the following means:

(1) *Email: OIRA-submission@omb.eop.gov.*

(2) *Mail:* OIRA, 725 17th Street NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) *Fax:* 202–395–6566. To ensure your comments are received in a timely manner, mark the fax, attention Desk Officer for the Coast Guard.

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–612), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr Ave. SE., Stop 7710, Washington, DC 20593–7710.

**FOR FURTHER INFORMATION CONTACT:** Contact Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

**SUPPLEMENTARY INFORMATION:**

### Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection. The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2016–0106], and must be received by August 5, 2016.

### Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0104.

### Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (81 FR 15323, March 22, 2016) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments. Accordingly, no changes have been made to the Collection.

### Information Collection Request

*Title:* Barges Carrying Bulk Hazardous Materials.

*OMB Control Number:* 1625–0104.

*Summary:* This information is needed to ensure the safe shipment of bulk hazardous liquids in barges. The requirements are necessary to ensure that barges meet safety standards and to ensure that barge's crewmembers have the information necessary to operate barges safely.

*Need:* Title 46 U.S.C. 3703 authorizes the Coast Guard to prescribe rules related to the carriage of liquid bulk dangerous cargoes. Title 46 CFR 151 prescribes rules for barges carrying bulk liquid hazardous materials.

*Forms:* None.

*Respondents:* Owners and operators of tank barges.

*Frequency:* On occasion.

*Hour Burden Estimate:* The estimated burden has increased from 28,958 hours to 40,307 hours a year. The burden change is due to a change in the estimated annual number of new construction (n/c) tank barges. In the last ICR submission, the Coast Guard estimated approximately 160 n/c tank barges per year. In this ICR submission, the Coast Guard estimates about 282 n/c tank barges per year.

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: June 30, 2016.

**Marilyn Scott-Perez,**

*U.S. Coast Guard, Acting Deputy Chief Information Officer.*

[FR Doc. 2016–15974 Filed 7–5–16; 8:45 am]

**BILLING CODE 9110–04–P**

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[Docket No. USCG–2016–0024]**

## Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625–0065

**AGENCY:** Coast Guard, DHS.

**ACTION:** Thirty-day notice requesting comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of a revision to the following collection of information: 1625–0065, Offshore Supply Vessels—Title 46 Code of Federal Regulation Subchapter L. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

**DATES:** Comments must reach the Coast Guard and OIRA on or before August 5, 2016.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number [USCG–2016–0024] to the Coast Guard using the Federal eRulemaking Portal at *http://www.regulations.gov.* Alternatively, you may submit comments to OIRA using one of the following means:

(1) *Email: OIRA-submission@omb.eop.gov.*

(2) *Mail:* OIRA, 725 17th Street NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) *Fax:* 202–395–6566. To ensure your comments are received in a timely manner, mark the fax, attention Desk Officer for the Coast Guard.

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–612), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE., Stop 7710, Washington, DC 20593–7710.

**FOR FURTHER INFORMATION CONTACT:** Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

**SUPPLEMENTARY INFORMATION:**

## Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) Che practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2016–0024], and must be received by August 5, 2016.

## Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov*. If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0065.

## Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (81 FR 14870, March 18, 2016) required by 44 U.S.C. 3506(c)(2). We received one comment from a commenter to the 60-day Notice. The comment was not related to the periodic renewal of this information collection. The comment was about the need to correct outdated organizational addresses and standards of certain materials incorporated by reference in title 46 CFR subchapter L, Offshore Supply Vessels. The Coast Guard will consider this comment in an ongoing rulemaking that will revise offshore supply vessel standards.

## Information Collection Request

*Title:* Offshore Supply Vessels—Title 46 Code of Federal Regulation Subchapter L.

*OMB Control Number:* 1625–0065.

*Summary:* Title 46 U.S.C. 3305 and 3306 authorizes the Coast Guard to prescribe safety regulations. Title 46 CFR subchapter L promulgates marine safety regulations for offshore supply vessels (OSV).

*Need:* The OSV posting/marking requirements are needed to provide instructions to those onboard of actions to be taken in the event of an emergency. The reporting/recordkeeping requirements verify compliance with regulations without Coast Guard presence to witness routine matters, including OSVs based overseas as an alternative to Coast Guard inspection.

*Forms:* None.

*Respondents:* Owners and operators of vessels.

*Frequency:* On occasion.

*Hour Burden Estimate:* The estimated burden has increased from 2,068 hours to 2,353 hours a year due to an increase in the estimated annual number of respondents. The change is due to the methodology for calculating burden being revised to better distinguish between the burden elements. The last Information Collection Request (ICR) simply estimated 304 responses per respondent. This ICR presents 3 distinct burden elements—(1) plan review and records submission; (2) recordkeeping & posting/marking; and (3) alternative annual inspection submissions. This ICR also shows the difference in activity level between existing OSVs and newly constructed OSVs.

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: June 30, 2016.

**Marilyn Scott-Perez,**

*Acting Deputy Chief Information Officer, U.S. Coast Guard.*

[FR Doc. 2016–15973 Filed 7–5–16; 8:45 am]

**BILLING CODE 9110–04–P**

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## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

**[FWS–R1–R–2015–N161; 1256–0000–10137–S3]**

## Kīlauea Point National Wildlife Refuge, Kaua‘i County, HI; Comprehensive Conservation Plan and Finding of No Significant Impact for Environmental Assessment

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the availability of our comprehensive conservation plan (CCP) and finding of no significant impact (FONSI) for the environmental assessment (EA) for Kīlauea Point National Wildlife Refuge (Refuge). The CCP will guide management of the Refuge for 15 years, or until it is revised, and actions will be implemented as funding becomes available.

**ADDRESSES:** You may view, download, or request printed or CD–ROM copies of the CCP and FONSI by the following methods:

*Agency Web site:* Download the documents at *http://www.fws.gov/refuge/Kilauea_Point/what_we_do/planning.html.*

*Email: FW1PlanningComments@fws.gov.* Include "Kīlauea Point final CCP" in the subject line of the message.

*Fax:* Attn: Michael Mitchell, Acting Project Leader, (808) 828–6381.

*U.S. Mail:* Kaua'i National Wildlife Refuge Complex, P.O. Box 1128, Kīlauea, HI 96754.

*In-Person Viewing or Pickup:* Call (808) 828–1413 to make an appointment during regular business hours at the Kīlauea Point National Wildlife Refuge, 3500 Kīlauea Road, Kīlauea, HI 96754. For more information on locations for viewing documents, see "Public Availability of Documents" under **SUPPLEMENTARY INFORMATION.**

**FOR FURTHER INFORMATION CONTACT:** Michael Mitchell, Acting Project Leader, Kaua'i National Wildlife Refuge Complex, P.O. Box 1128, Kīlauea, HI 96754; phone (808) 828–1413 and fax (808) 828–6381.

**SUPPLEMENTARY INFORMATION:**

## Introduction

With this notice, we finalize the CCP process for the Refuge. We started this process through a notice in the **Federal Register** (74 FR 49399; September 28, 2009). For more information about the history of the Refuge, see that notice. We also released the draft CCP/EA to the public and requested comments through a notice in the **Federal Register** (80 FR 7876; February 12, 2015).

We announce our decision and the availability of the FONSI and the final CCP in accordance with National Environmental Policy Act (40 CFR 1506.6(b)) requirements. We completed an analysis of impacts on the human environment in the draft CCP/EA. The CCP will guide management of the Refuge for 15 years, or until it is revised, and actions will be implemented as funding becomes available.

We selected a slightly modified Alternative D for implementation. We made changes and clarifications to the final CCP, where appropriate, to address public comments we received on the draft CCP/EA. A summary of the public comments is included in the final CCP with our responses.

## Background

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Refuge Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify compatible wildlife-dependent recreational opportunities available to the public. We will review and update the CCP at least every 15 years in accordance with the Refuge Administration Act.

## Selected Alternative

Under the selected alternative, we will expand long-term protections and population and habitat enhancements for migratory seabirds and the endangered nēnē (Hawaiian goose, *Branta sandvicensis*). We will restore native coastal plant communities. Priority research, inventories, monitoring, and other scientific assessments will increase.

The majority of public use activities offered at the Refuge will continue to revolve around wildlife observation and photography, environmental education, and interpretation located on Kīlauea Point proper (Point) or at the Kīlauea Road terminus (Overlook). We will offer guided interpretive hikes on Crater Hill, and our outreach, environmental education, and volunteer programs will be expanded.

To address transportation issues at the Point and Overlook, we will implement short-, medium-, and long-term strategies in a phased manner. The Kāhili Quarry area will continue to be open 24 hours a day to some wildlife-dependent uses (fishing, wildlife observation, and photography) and as public access to off-Refuge areas (Kīlauea River, Kīlauea Bay, and Kāhili Beach) for boating and other stream, beach, and ocean uses. Traditional cultural practices, such as native Hawaiian fishing at Kīlauea (East) Cove, will remain open.

The Refuge will maintain current infrastructure; however, a step-down Master Site Plan will be developed to evaluate and detail building use and remodeling/maintenance needs. We will develop a new maintenance baseyard (*e.g.,* storage sheds, bays, pole barns, and nursery) off-Refuge.

## Public Availability of Documents

You can view documents at the following libraries:

- Princeville Public Library, 4343 Emmalani Dr., Princeville, HI 96722
- Līhu'e Public Library, 4344 Hardy St., Līhu'e, HI 96766
- Kapa'a Public Library, 4–1464 Kuhio Hwy., Kapa'a, HI 96746
- Koloa Public Library, 3451 Poipu Rd., Koloa, HI 96756
- Hanapepe Public Library, 4490 Kona Rd., Hanapepe, HI 96716
- Waimea Public Library, 9750 Kaumualii Hwy., Waimea, HI 96796

Dated: June 6, 2016.

**Robyn Thorson,**

*Regional Director, Portland, Oregon, U.S. Fish and Wildlife Service.*

[FR Doc. 2016–15876 Filed 7–5–16; 8:45 am]

BILLING CODE 4333–15–P

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## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

[FWS–R6–ES–2016–N075; FXES1115XPSAGEG–167–FF06E13000]

## Endangered and Threatened Wildlife and Plants; Enhancement of Survival Permit Applications; Greater Sage-Grouse Umbrella Candidate Conservation Agreement With Assurances for Wyoming Ranch Management

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), have received applications for enhancement of survival permits (EOS permits) under the Endangered Species Act of 1973, as amended (Act), pursuant to the Greater Sage-grouse Umbrella Candidate Conservation Agreement with Assurances for Wyoming Ranch Management (Umbrella CCAA). The permit applications, if approved, would authorize incidental take associated with implementation of specified individual Candidate Conservation Agreements with Assurances (individual CCAAs) developed in accordance with the Umbrella CCAA. We invite the public to comment on the EOS permit applications described below. The Act requires that we invite public comment before issuing these permits.

**DATES:** To ensure consideration, please send your written comments by August 5, 2016.

**ADDRESSES:** *Submitting Comments:* Send written comments by one of the following methods. Please specify the permit(s) you are commenting on by relevant number(s) (*e.g.,* Permit No. TE–XXXXXX).

- *U.S. mail:* Tyler Abbott, Wyoming Ecological Services Field Office (ESFO), U.S. Fish and Wildlife Service, 5353 Yellowstone Road, Suite 308A, Cheyenne, WY 82009.
- *Email: tyler_abbott@fws.gov.*
- *Fax:* Tyler Abbott, (307) 772–2358.

*Reviewing Documents:* You may review copies of the enhancement of survival permit applications during regular business hours at the Wyoming ESFO (see address above). You may also request hard copies by telephone at (307) 772–2374, ext. 231, or by letter to the Wyoming ESFO. Please specify the permit(s) you are interested in by relevant number(s) (*e.g.*, Permit No. TE–XXXXXX).

**FOR FURTHER INFORMATION CONTACT:** Tyler Abbott, U.S. Fish and Wildlife Service, (307) 772–2374, ext. 231 (phone); *tyler_abbott@fws.gov* (email).

**SUPPLEMENTARY INFORMATION:**

## Background

A Candidate Conservation Agreement with Assurances is an agreement with the Service in which private and other non-Federal landowners voluntarily agree to undertake management activities and conservation efforts on their properties to enhance, restore, or maintain habitat to benefit species that are proposed for listing under the Act, that are candidates for listing, or that may become candidates. The Service and several State, Federal, and local partners developed the Umbrella CCAA (available at *http://www.fws.gov/wyominges*) to provide Wyoming ranchers with the opportunity to voluntarily conserve greater sage-grouse and its habitat while carrying out their ranching activities. The Umbrella CCAA was made available for public review and comment on February 7, 2013 (see 78 FR 9066), and was executed by the Service on November 8, 2013.

Pursuant to the Umbrella CCAA, ranchers in Wyoming may apply for an EOS permit under the Act by agreeing to implement certain conservation measures for the greater sage-grouse on their properties. These conservation measures are specified in individual CCAAs for their properties, which are developed in accordance with the Umbrella CCAA and are subject to the terms and conditions stated in that agreement. Landowners consult with the Service and other participating agencies to develop an individual CCAA for their property, and submit it to the Service for approval with their EOS permit application. If we approve the individual CCAA and EOS permit application, we will issue an EOS permit, under section 10(a)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*), that authorizes incidental take of greater sage-grouse that results from activities covered by the individual CCAA, should the species become listed. Through the Umbrella CCAA and the individual CCAA and EOS permit, we also provide assurances to participating landowners that, if the greater sage-grouse is listed, and so long as they are properly implementing their individual CCAA, we will not require any conservation measures with respect to greater sage-grouse in addition to those provided in the individual CCAA or impose additional land, water, or financial commitments or restrictions on land, water, or resource use in connection with the species. The EOS permit would become effective on the effective date of listing of the greater sage-grouse as endangered or threatened, and would continue through the end of the individual CCAA's 20-year term. Regulatory requirements and issuance criteria for EOS permits through a CCAA are found in 50 CFR 17.22(d) and 17.32(d), as well as 50 CFR part 13.

## Applications Available for Review and Comment

We invite local, State, and Federal agencies and the public to comment on the following EOS permit applications. The Umbrella CCAA, as well as the individual CCAAs submitted with the permit applications, are also available for review, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552). The following applicants request approval of EOS permits for the greater sage-grouse, pursuant to the Umbrella CCAA, for the purpose of enhancing the species' survival.

### *Permit Application Number TE88360B–0*

*Applicant:* Sommers Ranch LLC, Sublette County, Wyoming.

### *Permit Application Number TE88361B–0*

*Applicant:* S. Robert Leaver Family Limited Partnership, Sublette County, Wyoming.

### *Permit Application Number TE88365B–0*

*Applicant:* Grindstone Cattle Company, Sublette County, Wyoming.

### *Permit Application Number TE88366B–0*

*Applicant:* Chrisman Land Company, Inc., Sublette and Lincoln Counties, Wyoming.

### *Permit Application Number TE88362B–0*

*Applicant:* Piney Creeks Ranch, Sublette County, Wyoming.

### *Permit Application Number TE88363B–0*

*Applicant:* Hi Allen Ranch, Carbon County, Wyoming.

### *Permit Application Number TE58909B–1*

*Applicant:* Blake Sheep Co., Carbon and Sweetwater Counties, Wyoming.

## Public Availability of Comments

All comments and materials we receive in response to these requests will become part of the public record, and will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

## Authority

We provide this notice under section 10(c) of the Act (16 U.S.C. 1539(c)).

Dated: June 17, 2016.

**Michael G. Thabault,**

*Assistant Regional Director, Mountain-Prairie Region.*

[FR Doc. 2016–15963 Filed 7–5–16; 8:45 am]

**BILLING CODE 4333–15–P**

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## DEPARTMENT OF THE INTERIOR

## Bureau of Indian Affairs

**[167 A2100DD/AAKC001030/A0A501010.999900]**

# Indian Gaming; Approval of Amendment to Tribal-State Class III Gaming Compact in the State of Oregon

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** The Klamath Tribes and State of Oregon entered into an amendment to an existing Tribal-State compact governing Class III gaming; this notice announces approval of the amendment.

**DATES:** Effective July 6, 2016.

**FOR FURTHER INFORMATION CONTACT:** Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Assistant Secretary—Indian Affairs, Washington, DC 20240, (202) 219–4066.

**SUPPLEMENTARY INFORMATION:** Section 11 of the Indian Gaming Regulatory Act (IGRA) requires the Secretary of the Interior to publish in the **Federal**

**Register** notice of approved Tribal-State compacts that are for the purpose of engaging in Class III gaming activities on Indian lands. *See* Public Law 100–497, 25 U.S.C. 2701 *et seq.* All Tribal-State Class III compacts, including amendments, are subject to review and approval by the Secretary under 25 CFR 293.4.

The amendment is approved. *See* 25 U.S.C. 2710(d)(8)(A).

Dated: June 24, 2016.

**Lawrence S. Roberts,**

*Acting Assistant Secretary—Indian Affairs.*

[FR Doc. 2016–15976 Filed 7–5–16; 8:45 am]

BILLING CODE 4337–15–P

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## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLNV912000 L13400000.PQ0000 LXSS0006F0000; 12–08807; MO# 4500094009; TAS: 14X1109]**

### Notice of Public Meetings: Northeastern Great Basin Resource Advisory Council, Nevada

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of public meetings.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Northeastern Great Basin Resource Advisory Council (RAC), will hold two meetings in Nevada in fiscal year 2016 and one at the beginning of fiscal year 2017. The meetings are open to the public. July 22, California Trail Interpretive Center, 1 Trail Center Way, Elko, Nevada 89801, Nevada; Aug. 11–12, BLM Battle Mountain District Office, 50 Bastian Road, Battle Mountain, NV 89820, Nevada; and Oct. 6–7, 702 N. Industrial Way, HC 33, Box 33500, Ely, NV 89301, Nevada. Meeting times will be published in local and regional media sources at least 14 days before each meeting. All meetings will include a public comment period.

**FOR FURTHER INFORMATION CONTACT:** Greg Deimel, Public Affairs Specialist, Elko District Office, 3900 East Idaho Street, NV 89801, telephone: (775) 753–0386, email: *gdeimel@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The 15-member Council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in Nevada. Topics for discussion at each meeting will include, but are not limited to:

- July 22 (Elko)—Resource Advisory Council Standards and Guidelines, Greater Sage-Grouse, Range Management, and Southern Nevada Public Land Management Act.
- Aug. 11–12 (Battle Mountain)—Mining and Sage Grouse Habitat Restoration and Conservation, Field Tour with Barrick.
- October 6–7 (Ely)—Range Management, follow-up on Water Canyon Fertility Project, herd management areas.

Managers' reports of district office activities will be given at each meeting. The Council may raise other topics at the meetings.

Final agendas will be posted on-line at the BLM Northern Great Basin RAC Web site at *http://www.blm.gov/nv/st/en/res/resource_advisory.html* and will be published in local and regional media sources at least 14 days before each meeting.

Individuals who need special assistance such as sign language interpretation or other reasonable accommodations, or who wish to receive a copy of each agenda, may contact Greg Deimel no later than 10 days prior to each meeting.

**Rudy Evenson,**

*Deputy Chief, Office of Communications.*

[FR Doc. 2016–15961 Filed 7–5–16; 8:45 am]

BILLING CODE 4310–HC–P

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## DEPARTMENT OF THE INTERIOR

### Bureau of Ocean Energy Management

**[MMAA104000]**

### Mid-Atlantic Regional Ocean Action Plan

**AGENCY:** Bureau of Ocean Energy Management, National Park Service, U.S. Fish and Wildlife Service, U.S. Geological Survey, Department of the Interior; National Oceanic and Atmospheric Administration, Department of Commerce; U.S. Army Corps of Engineers, the Joint Staff, the Department of Defense; Environmental Protection Agency; Department of Energy; U.S. Coast Guard, the Department of Homeland Security; Department of Transportation; and the Department of Agriculture.

**ACTION:** Notice with request for comments.

**SUMMARY:** The Mid-Atlantic Regional Planning Body (MidA RPB), which includes eight Federal agencies and departments, six states, two Federally-recognized Indian Tribes, and the Mid-Atlantic Fishery Management Council, is requesting public comment on its draft Mid-Atlantic Regional Ocean Action Plan (draft Plan). The MidA RPB collaboratively prepared the draft Plan, pursuant to the National Ocean Policy, to build upon and improve existing Federal, state, and tribal decision-making and planning processes in the Mid-Atlantic Region. The Department of the Interior's Bureau of Ocean Energy Management (BOEM), as lead Federal agency for the MidA RPB, is publishing this notice on behalf of the MidA RPB. The MidA RPB will consider all public comments in revising the draft Plan, and will submit a final Plan to the National Ocean Council (NOC or Council) for its concurrence.

**DATES:** Submit comments on or before September 6, 2016 (60 days after publication in the **Federal Register** on July 6, 2016).

**ADDRESSES:** Submit your comments, identified by one of the following methods:

- *Email: MidAtlanticRPB@boem.gov;* and
- *Mail:* Robert P. LaBelle, Federal Co-Lead, Mid-Atlantic Regional Planning Body, BOEM, 45600 Woodland Road, Mailstop: VAM–BOEM DIR, Sterling, VA 20166.

Comments will be made available to the public on *http://www.boem.gov/Written-Public-Comments-Submitted-to-the-MidA-RPB/.* If you do not want your personal contact information to be publicly viewable, please do not include it in your comment or any accompanying documents.

The Draft Mid-Atlantic Ocean Action Plan may be obtained online at: *www.boem.gov/Ocean-Action-Plan/.*

**FOR FURTHER INFORMATION CONTACT:** Robert P. LaBelle, Federal Co-Lead, Mid-Atlantic Regional Planning Body, BOEM, 45600 Woodland Road, Mailstop: VAM–BOEM DIR, Sterling, VA 20166.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

*National Ocean Policy*

Executive Order 13547, signed July 19, 2010, Stewardship of the Ocean, Our Coasts, and the Great Lakes (National Ocean Policy), established a national policy to protect, maintain, and restore the health and biodiversity of the ocean, coastal, and Great Lakes ecosystems and resources; enhance the sustainability of the ocean and coastal economies; preserve our maritime heritage; support sustainable uses and access; provide for adaptive management to enhance our understanding of and capacity to respond to climate change and ocean acidification; increase our scientific understanding and awareness of changing environmental conditions, trends, and their causes; and perform duties in accordance with applicable international law, including respect for and preservation of navigational rights and freedoms, which are essential for the global economy, international peace, national security, and foreign policy interests. The National Ocean Policy encourages a comprehensive, adaptive, integrated, ecosystem-based, and transparent ocean planning process based on sound science for analyzing current and anticipated uses of ocean and coastal areas. The National Ocean Policy also provides for intergovernmental regional planning bodies' voluntary development of regional marine plans that build upon and improve existing Federal, state, and tribal decision-making and planning processes. These regional plans, developed by, for, and in the regions, will enable a more integrated, comprehensive, ecosystem-based, flexible, and proactive approach to planning and managing sustainable multiple uses across sectors, and will improve the conservation of the ocean, our coasts, and the Great Lakes.

### *Mid-Atlantic Regional Planning Body*

The MidA RPB includes six states (New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia); two Federally-recognized Indian Tribes (the Shinnecock Indian Nation and the Pamunkey Indian Tribe); eight Federal agencies and departments (U.S. Department of Agriculture, U.S. Department of Commerce, U.S. Department of Defense, U.S. Department of Energy, U.S. Department of Homeland Security, U.S. Department of the Interior, U.S. Department of Transportation, and the U.S. Environmental Protection Agency) and component sub-agencies (including the Bureau of Ocean Energy Management, the National Park Service, the U.S. Fish and Wildlife Service, the U.S. Geological Survey, the National Oceanic Atmospheric and Administration, the Maritime Administration, the U.S. Coast Guard, the Joint Staff, and the U.S. Army Corps of Engineers); and the Mid-Atlantic Fishery Management Council. The MidA RPB is not a regulatory body and has no independent legal authority to regulate or direct Federal, state or tribal entities, nor does the draft Plan, described below, augment or subtract from any entity's existing statutory or other authorities.

### *Development of the Draft Mid-Atlantic Ocean Action Plan*

The MidA RPB met for the first time in September 2013. The MidA RPB directed the formal processes and developed the draft Plan over the course of three years. The MidA RPB process leading to the draft Plan included a total of five multi-day public meetings between September 2013 and March 2016. Between MidA RPB meetings, there was ongoing outreach to obtain public feedback, identify and discuss issues, review data, and procure scientific input. For example, members of the MidA RPB met with expert work groups, stakeholder groups, environmental groups, and marine industries, including commercial fishing and shipping groups. The MidA RPB will review all comments received during the public comment period, and revise the draft Plan at the close of the comment period. The MidA RPB will consider all public comments received in making its revisions, and will then submit a final Plan to the NOC for its concurrence.

The draft Plan is based on science and informed by stakeholder data and input. Throughout the planning process, the MidA RPB involved stakeholders in developing data products regarding ocean-based human activities (for example, shipping, fishing, recreation, and energy generation) and marine life and habitat (through review of the methods, analyses, and draft products for spatial data characterizing species and their habitat). The MidA RPB also encouraged stakeholders to review spatial data on the Mid-Atlantic Ocean Data Portal (the Portal). In collaboration with the Mid-Atlantic Ocean Data Portal Working Group, the MidA RPB developed the Portal as an online source that incorporates maps and data on marine life distribution and human activities. The Portal is available online at: *http://midatlanticocean.org/data-portal/.*

## II. The Draft Mid-Atlantic Ocean Action Plan

The draft Plan, developed using the best available science and knowledge, provides an integrated, comprehensive, flexible, and proactive approach to planning and managing uses of the Mid-Atlantic marine environment. The draft Plan is a forward-looking document intended to strengthen interagency coordination, planning, and policy implementation, and to enhance public participation. The draft Plan has two main goals: (1) Healthy ocean ecosystems; and (2) sustainable ocean uses. The draft Plan promotes the use of data from the Portal to inform agency actions, enhance stakeholder input and involvement, locate potential areas of conflict, and identify additional information and science needs. The draft Plan also describes best practices for Federal inter-agency coordination, as well as coordination among Federal agencies, tribes, states, and other stakeholders. The draft Plan enhances the tools and information available for Federal agency actions and planning, and clarifies alternatives and opportunities within the context of tribal and state agency actions, thereby increasing coordination opportunities across these government entities.

As previously stated, the draft Plan does not augment or subtract from any entity's existing statutory or other authorities. The draft Plan provides a strategy to monitor and analyze trends in ecosystem health, and undertake efforts to communicate progress toward achieving the two main goals of the draft Plan. The draft Plan is a foundation, not a finished structure, and it will continue to evolve as new trends, information, and needs emerge.

## III. Implementation of the Mid-Atlantic Ocean Action Plan

Executive Order 13547, which adopts the *Final Recommendations of the Interagency Ocean Policy Task Force* (*Final Recommendations*), establishes a process for the NOC to review and certify each regional marine plan to ensure it is consistent with the National Ocean Policy and includes the essential elements described in the *Final Recommendations*.

The NOC issued guidance to the NOC member agencies in the form of the Marine Planning Handbook (Handbook). The Handbook calls for the NOC member agencies to concur that regional marine plans submitted by the regional planning bodies are consistent with the substantive and procedural standards set forth in the *Final Recommendations*. The NOC concurrence operates as the certification described in Executive Order 13547. By concurring that the Mid-Atlantic Ocean Action Plan was developed in accordance with the substantive and procedural standards in the *Final Recommendations*, the NOC certifies that Federal members of the MidA RPB will use the Plan to guide and inform their actions consistent with their existing statutory and regulatory authorities. Consistent with Executive Order 13547, each NOC member will, as described in the *Final Recommendations,* and to the fullest extent consistent with applicable law, comply with those regional plans certified by the NOC.

The Federal members of the MidA RPB administer a wide range of statutes and programs affecting the marine environment in the Mid-Atlantic. These Federal departments and agencies carry out actions under Federal laws involving a wide range of regulatory responsibilities and non-regulatory missions and management activities throughout the Nation's waterways and the ocean. These activities include managing and developing marine transportation systems, national security and homeland defense activities, regulating ocean discharges, siting energy facilities, permitting sand removal and beach re-nourishment, managing national parks and national wildlife refuges, regulating commercial and recreational fishing, and managing activities affecting threatened and endangered species and migratory birds.

The specific manner and mechanism a Federal agency uses to implement the final Mid-Atlantic Ocean Action Plan will depend on that agency's mission, authorities, and activities in the marine environment. The Federal members of the MidA RPB will publicly describe the administrative mechanisms they will use to implement the Plan when the MidA RPB submits the Plan to the NOC for review and concurrence.

If the NOC concurs (*i.e.,* certifies) that the Plan is consistent with Executive Order 13547, the *Final Recommendations,* and the Handbook, each Federal MidA RPB member will incorporate the final Plan into their planning processes and internal agency documents, and use the Plan to guide and inform their decisions and actions, consistent with applicable law. Federal MidA RPB members with regulatory responsibilities will incorporate the final Plan into their pre-planning, planning, and permitting to guide and inform Federal agency internal and external permitting decisions, environmental compliance, resource management plans, and other actions taken pursuant to existing statutory and regulatory authorities. These agencies will ensure their scientists, managers, decision-makers, and analysts use the Mid-Atlantic Regional Ocean Action Plan to guide and inform their actions to the fullest extent possible under existing statutory and regulatory authorities. As noted throughout the *Final Recommendations,* the Mid-Atlantic Ocean Action Plan will not create new authorities, regulations, or Federal agency missions. All Federal activities will continue to be managed under existing statutory and regulatory authorities.

## IV. Conclusion

Through Executive Order 13547, Stewardship of the Ocean, Our Coasts, and the Great Lakes, President Obama established a National Ocean Policy to ensure the protection, maintenance, and restoration of the health of ocean, coastal, and Great Lakes ecosystems and resources; enhance the sustainability of ocean and coastal economies; preserve our maritime heritage; support sustainable uses and access; provide for adaptive management of ocean and coastal resources to enhance our understanding of and capacity to respond to climate change and ocean acidification; and coordinate ocean policy with our national security and foreign policy interests.

The MidA RPB anticipates the Mid-Atlantic Regional Ocean Action Plan will increase the sharing of information and data across resource managers, stakeholders, and the public; enhance decision-making through collaboration and coordination among Federal, state, and tribal governments; and provide for an improved information and data system that characterizes human activities and natural resources in Mid-Atlantic waters from the coast to 200 nautical miles offshore. This informational overlay, along with the best practices for improved coordination, will improve the context for decisions affecting the resources and coastal and ocean waters of the Mid-Atlantic region.

**Authority:** Executive Order 13547, "Stewardship of the Ocean, Our Coasts and the Great Lakes" (July 19, 2010).

Dated: June 22, 2016.

**Kristen J. Sarri,**

*Principal Deputy Assistant Secretary Policy, Management and Budget.*

[FR Doc. 2016–15588 Filed 7–5–16; 8:45 am]

BILLING CODE 4310–MR–P

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## DEPARTMENT OF THE INTERIOR

## Bureau of Reclamation

**[RR04073000, XXXR4081X3, RX.05940913.7000000]**

## Notice of Public Meeting for the Glen Canyon Dam Adaptive Management Work Group

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Notice.

**SUMMARY:** The Glen Canyon Dam Adaptive Management Work Group (AMWG) makes recommendations to the Secretary of the Interior concerning Glen Canyon Dam operations and other management actions to protect resources downstream of Glen Canyon Dam, consistent with the Grand Canyon Protection Act. The AMWG meets two to three times a year.

**DATES:** The meeting will be held on Wednesday, August 24, 2016, from approximately 9:30 a.m. to approximately 5:30 p.m.; and Thursday, August 25, 2016, from approximately 8:30 a.m. to approximately 3 p.m.

**ADDRESSES:** The meeting will be held at the Little America Hotel, 2515 E. Butler Avenue, Flagstaff, Arizona 86004.

**FOR FURTHER INFORMATION CONTACT:** Katrina Grantz, Bureau of Reclamation, telephone (801) 524–3635; facsimile (801) 524–3807; email at *kgrantz@usbr.gov.*

**SUPPLEMENTARY INFORMATION:** The Glen Canyon Dam Adaptive Management Program (GCDAMP) was implemented as a result of the Record of Decision on the Operation of Glen Canyon Dam Final Environmental Impact Statement to comply with consultation requirements of the Grand Canyon Protection Act (Pub. L. 102–575) of 1992. The GCDAMP includes a Federal advisory committee, the AMWG, a technical work group (TWG), a Grand Canyon Monitoring and Research Center, and independent review panels. The TWG is a subcommittee of the AMWG and provides technical advice and recommendations to the AMWG.

*Agenda:* The primary purpose of the meeting will be to approve the Fiscal Year 2017 Budget and Work Plan, and to approve the Water Year 2017 Hydrograph operation for Glen Canyon Dam. The AMWG will receive updates on: (1) The Long-Term Experimental and Management Plan Environmental Impact Statement, (2) current basin hydrology, (3) reports from the Glen Canyon Dam Tribal and Federal Liaisons, (4) presentation on power generation in the West, and (5) science results from Grand Canyon Monitoring and Research Center staff. The AMWG will also address other administrative and resource issues pertaining to the GCDAMP.

To view a copy of the agenda and documents related to the above meeting, please visit Reclamation's Web site at *http://www.usbr.gov/uc/rm/amp/amwg/mtgs/16aug24.* Time will be allowed at the meeting for any individual or organization wishing to make formal oral comments. To allow for full consideration of information by the

AMWG members, written notice must be provided to Katrina Grantz, Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 8100, Salt Lake City, Utah 84138; telephone (801) 524–3635; facsimile (801) 524–3807; email at *kgrantz@usbr.gov,* at least five (5) days prior to the meeting. Any written comments received will be provided to the AMWG members.

**Public Disclosure of Comments**

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: June 23, 2016.

**Katrina Grantz,**

*Chief, Adaptive Management Group, Environmental Resources Division, Upper Colorado Regional Office.*

[FR Doc. 2016–15960 Filed 7–5–16; 8:45 am]

**BILLING CODE 4332–90–P**

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## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

**[S1D1S SS08011000 SX066A0067F 167S180110; S2D2D SS08011000 SX066A00 33F 16XS501520]**

## Notice of Proposed Information Collection; Request for Comments for 1029–0030

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSMRE) is announcing its intention to request approval for the collections of information for State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations. The information collection request describes the nature of the information collection and its expected burden and cost.

**DATES:** Comments on the proposed information collection must be received by September 6, 2016, to be assured of consideration.

**ADDRESSES:** Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW., Room 203—SIB, Washington, DC 20240. Comments may also be submitted electronically to *jtrelease@osmre.gov.*

**FOR FURTHER INFORMATION CONTACT:** To receive a copy of the information collection request contact John Trelease, at (202) 208–2783 or by email at *jtrelease@osmre.gov.*

**SUPPLEMENTARY INFORMATION:** Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8 (d)]. This notice identifies an information collection that OSMRE will be submitting to OMB for extension. This collection is contained in 30 CFR part 764.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection of information is 1029–0030 and is displayed at 30 CFR 764.10.

OSMRE has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on reestimates of burden or respondents. OSMRE will request a 3-year term of approval for these information collection activities.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collections; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSMRE's submission of the information collection request to OMB.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

This notice provides the public with 60 days in which to comment on the following information collection activity:

*Title:* 30 CFR part 764—State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations.

*OMB Control Number:* 1029–0030.

*Summary:* This part implements the requirement of section 522 of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Public Law 95–87, which provides authority for citizens to petition States to designate lands unsuitable for surface coal mining operations, or to terminate such designation. The regulatory authority uses the information to identify, locate, compare and evaluate the area requested to be designated as unsuitable, or terminate the designation, for surface coal mining operations.

*Bureau Form Number:* None.

*Frequency of Collection:* Once.

*Description of Respondents:* Individuals, groups or businesses that petition the States, and the State regulatory authorities that must process the petitions.

*Total Annual Respondents:* 4.

*Total Annual Burden Hours:* 1,000 hours for individuals or groups, and 4,000 for State regulatory authorities.

*Total Annual Non-wage Costs:* $400

Dated: June 30, 2016.

**John A. Trelease,**

*Acting Chief, Division of Regulatory Support.*

[FR Doc. 2016–15957 Filed 7–5–16; 8:45 am]

**BILLING CODE 4310–05–P**

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## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

**[S1D1S SS08011000 SX066A0067F 167S180110; S2D2D SS08011000 SX066A00 33F 16XS501520]**

## Notice of Proposed Information Collection; Request for Comments for 1029–0049

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSMRE) is announcing its intention to request renewed approval for the collection of information for OSMRE's Special Permanent Program Performance Standards—Operations in Alluvial Valley Floors.

**DATES:** Comments on the proposed information collection must be received by September 6, 2016, to be assured of consideration.

**ADDRESSES:** Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave NW., Room 203—SIB, Washington, DC 20240. Comments may also be submitted electronically to *jtrelease@osmre.gov.*

**FOR FURTHER INFORMATION CONTACT:** To receive a copy of the information collection request contact John Trelease, at (202) 208–2783 or by email at *jtrelease@osmre.gov.*

**SUPPLEMENTARY INFORMATION:** Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8 (d)]. This notice identifies an information collection that OSMRE will be submitting to OMB for extension. This collection is contained in 30 CFR part 822.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection of information is 1029–0049 and is displayed at 30 CFR 822.10.

OSMRE has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on reestimates of burden or respondents. OSMRE will request a 3-year term of approval for this information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collections; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSMRE's submissions of the information collection request to OMB.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

This notice provides the public with 60 days in which to comment on the following information collection activity:

*Title:* 30 CFR part 822—Special Permanent Program Performance Standards—Operations in Alluvial Valley Floors.

*OMB Control Number:* 1029–0049.

*Summary:* Sections 510(b)(5) and 515(b)(10)(F) of the Surface Coal Mining and Reclamation Act of 1977 (the Act) protect alluvial valley floors from the adverse effects of surface coal mining operations west of the 100th meridian. Part 822 requires the permittee to install, maintain, and operate a monitoring system in order to provide specific protection for alluvial valley floors. This information is necessary to determine whether the unique hydrologic conditions of alluvial valley floors are protected according to the Act.

*Bureau Form Number:* None.

*Frequency of Collection:* Annually.

*Description of Respondents:* 25 coal mining operators who operate on alluvial valley floors and 4 State regulatory authorities.

*Total Annual Responses:* 50.

*Total Annual Burden Hours:* 2,750.

*Total Annual Non-wage Costs:* $0.

Dated: *June 30, 2016.*

**John A. Trelease,**

*Acting Chief, Division of Regulatory Support.*

[FR Doc. 2016–15959 Filed 7–5–16; 8:45 am]

**BILLING CODE 4310–05–P**

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# DEPARTMENT OF JUSTICE

## Antitrust Division

## Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Armaments Consortium

Notice is hereby given that, on May 31, 2016, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), National Armaments Consortium ("NAC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Advanced Material Designs & Reliability, Austin, TX; AECOM, Germantown, MD; Alytic, Inc., King George, VA; Apexx Enterprises, LLC, Montgomery, IN; A-Tech Corporation, Alburquerque, NM; Atlantic Fluid Power, Inc. dba Atlantic Industrial Technologies, Shirley, NY; Azimuth Consulting Services, Inc., Fairfax, VA; B.E. Meyers & Co., Inc., Redmond, WA; BakerRisk, San Antonio, TX; Cerion, LLC, Rochester, NY; Corning Incorporated, Corning, NY; Creative MicroSystems Corporation, Waitsfield, VT; D&H-Nav Technologies Corporation, Jackson, NJ; Daniel Defense, Inc., Black Creek, GA; Doolittle Institute, Inc., Fort Walton Beach, FL; Drexel University, Philadelphia, PA; Dynamic Structures and Materials, LLC, Franklin, TN; EngeniusMicro, Atlanta, GA; Equinox Corporation, New York, NY; Exlar Corporation, Chanhassen, MN; Fathom 4, LLC, Charleston, SC; Fibertek, Inc., Herndon, VA; Government Energy Solutions, Inc., Huntsville, AL; GPH Consulting, LLC, Charleston, SC; Gunwright Technologies, LLC, Gilbert, AZ; Intuitive Research and Technology Corporation, Huntsville, AL; Joint Research and Development, Belcamp, MD; K2 Solutions Inc., Southern Pines, NC; L–3 Applied Technologies, Inc., San Leandro, CA; LinQuest Corporation, Los Angeles, CA; Loc Performance Products, Inc., Plymouth, MI; Lockheed Martin Aculight Corporation, Bothell, WA; ManTech Advanced Systems International, Inc., Fairfax, VA; Manufacturing Techniques, Inc. (dba MTEQ), Lorton, VA; Matrix International Security Training Intelligence Center, Inc. (MISTIC), Rosewell, NM; Metamagnetics Inc., Canton, MA; Mettle Ops, Sterling Heights, MI; Mistral Inc., Bethesda, MD; MZA Associates Corporation, Albuquerque, NM; Nammo Energetics Indian Head, Inc., Arlington, VA; New Mexico Institute of Mining and Technology, Socorro, NM; On-Point Defense Technologies, Fort Walton Beach, FL; Patriot American Solutions, Rockaway, NJ; Plansee USA LLC, Franklin, MA; QinetiQ North America, Waltham, MA; RCT Systems Inc., Herndon, VA; Redstone Aerospace Corporation, Longmont, CO; Remington Arms Company, LLC, Madison, NC; Solution Now Enterprises, LLC, Winter Park, FL; Streamline Numerics, Inc., Gainesville, FL; Systems Engineering Group, Inc., Columbia, MD; Tech Projects LLC, Honolulu, HI; Technology Assessment and Transfer, Inc., Annapolis, MD; Ten-X Ammunition, Inc., Rancho Cucamonga, CA; The Boeing Company, Laser & Electo-Optical Systems, Albuquerque, NM; The ExOne Company, North Huntingdon, PA; Thermacore Materials Technology

Division, Belle Vernon, PA; Trust Automation, Inc., San Luis Obispo, CA; UNC Charlotte Research Institute, Charlotte, NC; Unified Business Technologies, Inc., Troy, MI; and XL Scientific, LLC, Albuquerque, NM, have been added as parties to this venture.

Also, AT and T Government Solutions, Inc., Vienna, VA; Cherokee-Technical Specialists, LLC, Miramar Beach, FL; Combustion Propulsion and Ballistic Technology Corp., State College, PA; Custom Cable Solutions, Inc., Salisbury, MD; Meggitt (Orange County), Inc., Irvine, CA; MSE Technology Application, Inc., Butte, MT; Performance Indicator, LLC, Lowell, MA; T.Quinn & Associates, LLC, Warren, MI; Tec-Masters, Inc., Huntsville, AL; TELEGRID Technologies, Inc., Livingston, NJ; TLC Precision Wafer Technology Inc., Minneapolis, MN; TrackingPoint, Inc., Pflugerville, TX; and Triton Systems, Inc., Chelmsford, MA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NAC intends to file additional written notifications disclosing all changes in membership.

On May 2, 2000, NAC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on June 30, 2000 (65 FR 40693).

The last notification was filed with the Department on March 15, 2016. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on April 14, 2016 (81 FR 22121).

**Patricia A. Brink,**

*Director of Civil Enforcement, Antitrust Division.*

[FR Doc. 2016–15966 Filed 7–5–16; 8:45 am]

**BILLING CODE P**

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## DEPARTMENT OF JUSTICE

## Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum Project No. 2013–07, Stream Speciation Update

Notice is hereby given that, on June 6, 2016, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Petroleum Environmental Research Forum Project No. 2013–07, Stream Speciation Update ("PERF Project No. 2013–07") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Phillips 66 Company, Houston, TX, has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PERF Project No. 2013–07 intends to file additional written notifications disclosing all changes in membership.

On February 23, 2015, PERF Project No. 2013–07 filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on April 2, 2015 (80 FR 17786).

**Patricia A. Brink,**

*Director of Civil Enforcement, Antitrust Division.*

[FR Doc. 2016–16019 Filed 7–5–16; 8:45 am]

**BILLING CODE P**

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## DEPARTMENT OF JUSTICE

## Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—the National Advanced Mobility Consortium (Formerly Robotics Technology Consortium, Inc.)

Notice is hereby given that, on June 2, 2016, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Robotics Technology Consortium, Inc. ("RTC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Robotics Technology Consortium, Inc., has changed its name to The National Advanced Mobility Consortium ("NAMC"). Specifically, Abaco Systems, Inc. (formerly GE Intelligent Platforms Embedded Systems), Huntsville, AL; ABS USA, LLC, Sterling Heights, MI; Ace Electronics Defense Systems, LLC, Troy, MI; Achates Power, Inc., San Diego, CA; Acquisition Technologies Integrated, Inc., Williamsburg, PA; ADA Technologies, Inc., Littleton, CO; Agile Communications, Inc., Thousand Oaks, CA; Alcoa Defense, Inc., New Kensington, PA; Alion Science and Technology, Warren, MI; Allison Transmission, Inc., Indianapolis, IN; AlphaUSA, Livonia, MI; Altair Product Design, Inc., Troy, MI; Altex Technologies Corporation, Sunnyvale, CA; American Rheinmetall Munitions, Inc., Stafford, VA; AM General, LLC, Livonia, MI; AmSafe, Inc., Phoenix, AZ; Analysis & Design Application Co. Ltd., Melville, NY; AnthroTronix, Inc., Silver Spring, MD; Applied Minds, LLC, Glendale, CA; Applied Research Associates, Inc., Albuquerque, NM; Applied Technology Integration, Inc., Maumee, OH; Artis, LLC, Herndon, VA; Association for Unmanned Vehicle Systems International (AUVSI), Arlington, VA; ATA Engineering, Inc., San Diego, CA; ATI Inc. (Alloy Technology Innovations, Inc.), Lexington, KY; Atlas Scientific, LLC, Brooklyn, NY; August Research Systems, Inc., Coraopolis, PA; Automation Alley Business Services, Sterling Heights, MI; Automotive Rentals, Inc., Mount Laurel, NJ; Avittor International Corp, Sterling Heights, MI; AVL Powertrain Engineering, Inc., Plymouth, MI; Badenoch, LLC, Southfield, MI; Battelle Memorial Institute, Dover, NJ; Baum Romstedt Technology Research Corp., Fairfax, VA; Bokam Engineering, Inc., Santa Ana, CA; Bren-Tronics, Inc., Commack, NY; CALIBRE Systems, Inc., Alexandria, VA; Caterpillar, Inc., Mossville, IL; Clemson University—College of Engineering and Science, Clemson, SC; CLogic Defense, Paramus, NJ; Coliant Corporation, Warren, MI; Combat Advanced Propulsion, LLC, Muskegon, MI; Control Point Corporation, Goleta, CA; Corvid Technologies, Mooresville, NC; Cougaar Software, Inc., Vienna, VA; CPS Technologies Corporation, Norton, MA; Creative Electronic Systems North America, Inc., Apex, NC; Critical Solutions International, Inc., Richland, MO; CrossTek Solutions LLC, Vicksburg, MS; Cummins, Inc., Columbus, IN; Curtiss-Wright Controls Electronic Systems, Inc., Santa Clarita, CA; DCS Corporation, Alexandria, VA; Defense Engineering Services, LLC, Charleston, SC; Design West Technologies, Inc., Tustin, CA; DHPC Technologies, Inc., Woodbridge, NJ; Domo Tactical Communications DTC (formerly Cobham Surveillance), Washington, DC; DomerWorks, Ltd., Grand Rapids, MI; DRS Network & Imaging Systems, LLC, Dallas, TX; DRS Sustainment Systems, Inc., St. Louis, MO; Dynamic Dimension Technologies, LLC, Westminster, MD; Dynetics, Inc., Huntsville, AL; eTrans Systems, Fairfax, VA; EaglePicher Technologies, Joplin, MO; Eck Industries, Inc., Manitowoc, WI; EDAG, Inc., Troy, MI; Efficient Drivetrains, Inc., Boulder, CO; Elbit Systems of America, LLC, Fort Worth, TX; Electro-Mechanical Associates, Inc., Ann Arbor, MI; Elevate Systems, San Antonio, TX; ELTA North America, Inc., Fulton, MD; EWI, Columbus, OH; Excel Engineering, Diagonal, IA; Exponent, Inc., Menlo Park, CA; Fastpilot, Inc., Lake in the Hills, IL; FBS, Inc., State College, PA; FEDITC, LLC, San Antonio, TX; FEV North America, Inc., Auburn Hills, MI; Flash Bainite, Washington, MI; General Dynamics Land Systems, Sterling Heights, MI; General Dynamics-OTS, Inc., Williston, VT; Global Embedded Technologies, Inc., Farmington Hills, MI; Global Technology Associates, Ltd., Dearborn, MI; GPS Source, Inc., Pueblo West, CO; Gravikor, Inc., Ann Arbor, MI; Great Lakes Sound & Vibration, Inc., Houghton, MI; Great Lakes Systems & Technology, LLC, Chesterfield Township, MI; Green Hills Software, Inc., Santa Barbara, CA; GS Engineering, Houghton, MI; Gunite Corporation (Accuride Corporation), Rockford, IL; Harbrick, Moscow, ID; HBM nCode Federal, LLC, Southfield, MI; Hendrick Motorsports Performance Group, Charlotte, NC; Honeywell International, Phoenix, AZ; Horstman Incorporated, Sterling Heights, MI; Hutchinson Industries, Inc., Trenton, NJ; Hydroid, Inc., Pocasset, MA; IAV Automotive Engineering, Inc., Northville, MI; IGNIO LLC, Bloomfield Hills, MI; Iguana Technology LLC, Tillamook, OR; IMSolutions, LLC, Dumfries, VA; Induct Technology, Inc., Boca Raton, FL; Infinite Technologies, Inc., Folsom, CA; Inmatech, Inc., Ann Arbor, MI; InnoVital Systems, Inc., Beltsville, MD; Integrated Solutions for Systems, Inc., Huntsville, AL; Intelligent Automation, Inc., Rockville, MD; Intertek Testing Services NA, LLC, Cortland, NY; J.G.W. International Ltd., Reston, VA; John H. Northrop & Associates, Inc., Burke, VA; Johns Hopkins University Applied Physics Laboratory, Laurel, MD; Kairos Autonomi, Inc., Sandy, UT; Kalmar Rough Terrain Center, Cibolo, TX; Kutta Technologies, Inc., Phoenix, AZ; L–3 Interstate Electronics Corporation, Anaheim, CA; L–3 Mustang Technology, Plano, TX; Leidos, Arlington, TX; Lentix, Inc., Powell, TN; Lionbridge, Sterling Heights, MI; Loc Performance Products, Plymouth, MI; Logikos, Inc., Fort Wayne, IN; Lotus Engineering, Inc., Ann Arbor, MI; LSA Autonomy, Westminster, MD; Lucid Dimensions, Inc., Lafayette, CO; Lynntech, Inc., College Station, TX; M3 Consulting Services, Inc., Washington, MI; MAHLE Powertrain, LLC, Farmington Hills, MI; Materials Sciences Corporation, Horsham, PA; Mattracks, Inc., Karlstad, MN; M Cubed Technologies, Inc., Newtown, CT; MDA US Systems, LLC, Pasadena, CA; Mechanical Solutions, Inc., Whippany, NY; Med-Eng, LLC, Bismarck, ND; Meldetech, Princeton, NJ; Merrill Aviation & Defense, Troy, MI; MetaMorph Inc., Nashville, TN; Micro Systems, Inc., Ft. Walton Beach, FL; MillenWorks, Tustin, CA; Milton Manufacturing, Detroit, MI; Milwaukee School of Engineering, Milwaukee, WI; Mistral, Inc., Bethesda, MD; Motiv Space Systems, Inc., Pasadena, CA; Munro & Associates, Inc., Auburn Hills, MI; N&R Engineering and Management Services Corporation, Parma Heights, OH; National Technical Systems, Inc., Hot Springs, AR; Navitas Advanced Solutions Group, LLC, Ann Arbor, MI; Near Earth Autonomy, Inc., Pittsburgh, PA; NetCentric Technology, LLC, Wall, NJ; Nevada Automotive Test Center (NATC), Silver Springs, NV; New Eagle Consulting, LLC, Ann Arbor, MI; Nexus Energy, Mobility and Cleantech, LLC, Raleigh, NC; NextEnergy Center, Detroit, MI; Nhungs Notions, Saugus, MA; Northrop Grumman Information Systems, Huntsville, AL; OpenJAUS, LLC, Allison Park, PA; Orbital ATK (formerly Alliant Techsystems ATK), Tucson, AZ; Plasan North America, Bennington, VT; PPG Industries, Inc., Allison Park, PA; Primal Innovation, LLC, Lake Mary, FL; Primus Solutions, Inc., Colorado Springs, CO; Protection Engineering Consultants, LLC, San Antonio, TX; QinetiQ, Inc., Centerville, VA; Quantum Fuel Systems Technologies Worldwide, Inc., Lake Forest, CA; Quantum Signal, LLC, Saline, MI; RCR Manufacturing Solutions, LLC, Lexington, NC; REL, Inc., Calumet, MI; Research Foundation of the City University of New York (City College of New York), New York, NY; Ricardo Defense Systems, Inc., Van Buren Township, MI; Robertson Fuel Systems LLC, Tempe, AZ; Rose-A-Lee Technologies, Inc., Sterling Heights, MI; Roush Industries, Inc., Livonia, MI; S&K Global Solutions, LLC, Polson, MT; Saab Defense and Security USA LLC, Sterling, VA; Safe, Inc., Tempe, AZ; Saft America, Inc., Cockeysville, MD; SAPA Transmission, Inc., Deerfield Beach, FL; Science Applications International Corp (SAIC), McLean, VA; Seemann Composites, Inc., Gulfport, MS; Select Engineering Services, Layton, UT; SIFT, LLC, Minneapolis, MN; SimaFore, LLC, Ann Arbor, MI; Sirab Technologies, Inc., Novato, CA; Sound Answers, Inc., Canton, MI; South Dakota School of Mines and Technology, Rapid City, SD; Spatial Integrated Systems, Inc., Kinston, NC; Specialty Tooling Systems, Inc., Grand Rapids, MI; SpringActive, Inc., Tempe, AZ; Stark Aerospace, Columbus, MS; Stryke Industries, LLC, Fernandina Beach, FL; SURVICE Engineering Company, LLC, Warren, MI; Survivability Solutions, LLC, Sterling Heights, MI; Systems Process, Inc., Fort Wayne, IN; T.E.A.M., Inc., Woonsocket, RI; Team O'Neil Rally School LLC, Dalton, NH; Technical Professional Services, Inc., Wayland, MI; Technology and Supply Management, LLC, Fairfax, VA; Tencate Advanced Armor Design, Inc., Goleta, CA; Texas Research Institute, Austin, TX; The Boeing Company, Huntington Beach, CA; The Energetics Technology Center, Inc. (ETC), St. Charles, MD; The Omnicon Group, Inc., Hauppauge, NY; Troika Solutions, LLC, Arlington, VA; Tyco Electronics Corporation, Berwyn, PA; UnderSea Sensor Systems, Inc. (formerly Ultra Electronics, AMI), Columbia City, IN; Unified Business Technologies, Inc., Troy, MI; Universal Technical Resource Services, Inc., Cherry Hill, NJ; University of Delaware Center for Composite Materials, Newark, DE; University of Wisconsin-Milwaukee, Milwaukee, WI; UTC Aerospace Systems-Goodrich, Charlotte, NC; Venture Management Services, LLC, Troy, MI; Veyance Technologies, Inc., St. Marys, OH; VRC Metal Systems, LLC, Rapid City, SD; VSE Corporation, Alexandria, VA; Waltonen Engineering, Inc., Warren, MI; and Wartech Engineering, LLC, Saline, MI, have been added as parties to this venture.

Also, 5D Robotics, Inc., Carlsbad, CA; Alliant Techsystems (ATK), Arlington, VA; American Reliance, Inc., El Monte, CA; Black-I Robotics, Inc., Tyngsboro, MA; Bolduc Technology Group, LLC, Augusta, ME; C–21, Inc., Stow, MA; Coherent Logix, Inc., Austin, TX; Delta Tau Data Systems, Inc., Chatsworth, CA; Dragonfly Pictures, Inc., Essington, PA; Edge Robotics Inc., Pittsburgh, PA; Energid Technologies Corporation, Cambridge, MA; Humanistic Robotics, Inc., Philadelphia, PA; Insitu, Inc., Bingen, WA; Integrated Microwave Technologies, LLC, Mount Olive, NJ; Kraft TeleRobotics, Inc., Overland Park, KS; Macro USA, Roseville, CA; Michigan State University, East Lansing, MI; Mobile Intelligence Corporation, Livonia, MI; Pelican Mapping, Fairfax, VA; Photon-X, LLC, Kissimmee, FL; PNI Sensor Corporation, Santa Rosa, CA; Quantum 3D, Inc., San Jose, CA; Rehg

Enterprises, Pearl River, NY; Robotic Technology, Inc., Washington, DC; Seegrid Corporation, Pittsburgh, PA; Segway Robotics, Bedford, MA; Sikorsky Aircraft Corporation, Stratford, CT; TDC Acquisition Holdings, Inc., Huntsville, AL; Tech Wise, Colorado Springs, CO; Telefactor Robotics, LLC, West Conshohocken, PA; Texas A&M University, San Antonio, TX; University of Arizona, Tucson, AZ; University of Louisiana at Lafayette, Lafayette, LA; University of Pennsylvania, Philadelphia, PA; Wayne State University—College of Engineering, Detroit, MI; and Workhorse Technologies, LLC, Pittsburgh, PA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NAMC intends to file additional written notifications disclosing all changes in membership.

On October 15, 2009, RTC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on November 30, 2009 (74 FR 62599).

The last notification was filed with the Department on March 25, 2014. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on April 30, 2014 (79 FR 24450).

**Patricia A. Brink,**

*Director of Civil Enforcement, Antitrust Division.*

[FR Doc. 2016–15969 Filed 7–5–16; 8:45 am]

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## DEPARTMENT OF JUSTICE

## Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Spectrum Consortium

Notice is hereby given that, on May 31, 2016, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Spectrum Consortium (''NSC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Fibertek, Inc., Herndon, VA; ANRA Technologies, LLC, Stone Ridge, VA; Systems & Technology Research, Woburn, MA; Toyon Research Corporation, Goleta, CA; Global Ground Systems, LLC, Purcellville, VA; Leidos, Inc., Reston, VA; Thales Defense & Security, Inc., Clarksburg, MD; Zoic Labs, LLC, Culver City, CA; Corner Alliance, Inc., Washington, DC; Digital Global Systems, Beltsville, MD; C–3 Comm Systems, LLC, Vienna, VA; EPIC Scientific, Spring Lake Heights, NJ; Metamagnetics, Inc., Canton, MA; University of Kansas Center for Research, Inc., Lawrence, KS; Adjacent Link LLC, Bridgewater, NJ; University of Dayton, Dayton, OH; Welkin Sciences, LLC, Colorado Springs, CO; Aeronix, Inc., Melbourne, FL; EpiSys Science, Inc., Poway, CA; University of California, Irvine, CA; Booz Allen Hamilton, Inc., Belcamp, MD; Waveform Logic, Inc., Winter Park, FL; Agile Communications, Inc., Thousand Oaks, CA; Drexel University, Philadelphia, PA; Scientific Research Corporation, Atlanta, GA; Applied Technology Associates, Albuquerque, NM; Jupiterra LLC, Washington, DC; Photonic Systems, Inc., Billerica, MA; Ball Aerospace & Technologies Corp., Fairborn, OH; MaXentric Technologies, LLC, Fort Lee, NJ; NorthWest Research Associates, Inc., Redmond, WA; and Ideal Innovations Incorporated, Arlington, VA, have been added as parties to this venture.

Also, ICF Incorporated, LLC, Fairfax, VA; Kestrel Corporation, Albuquerque, NM; Metric Systems Corporation, Vista, CA; and Shared Spectrum Company, Vienna, VA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NSC intends to file additional written notifications disclosing all changes in membership.

On May 24, 2014, NSC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on November 4, 2014 (72 FR 65424).

The last notification was filed with the Department on March 15, 2016. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on April 14, 2016 (81 FR 22120).

**Patricia A. Brink,**

*Director of Civil Enforcement, Antitrust Division.*

[FR Doc. 2016–15972 Filed 7–5–16; 8:45 am]

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## DEPARTMENT OF JUSTICE

## Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Center for Manufacturing Sciences, Inc.

Notice is hereby given that, on June 2, 2016, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Center for Manufacturing Sciences, Inc. (''NCMS'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, BAE Systems Aerospace Defense Group, Inc., Phoenix, AZ; Barfield, Inc., Miami, FL; Claxton Logistics, Dumfries, VA; Copernicus Technology LTD, Ogden, UT; EADS North America Test and Services, Maryland Heights, MO; Elevate Systems, San Antonio, TX; FIVES Machining Systems Inc., Fond du Lac, WI; Flight Support, Inc., North Haven, CT; Great Lakes Composites Consortium, Inc., West Columbia, SC; Impact Resources, Inc. dba IR Technologies, Bethesda, MD; J Chadwick Co., Monrovia, CA; MagneGas Corporation, Rochester Hills, MI; MERC—Mercer Engineering Research Center, Beavercreek, OH; Michigan State University, East Lansing, MI; MKGCS, Herndon, VA; Moog Incorporated, Plymouth, MI; National Additive Manufacturing Innovation Institute, Gaithersburg, MD; National Center for Defense Manufacturing Machining (NCDMM), Chambersburg, PA; PPG Industries, Inc., Troy, MI; Pratt & Whitney, Hartford, CT; PYA Analytics, Knoxville, TN; RGS Associates Inc., Arlington, VA; Russells Technical Products, Holland, MI; Services and Solutions Group, LLC, Charleston, SC; Sikorsky Aircraft, Stratford, CT; Survivability Solutions, LLC, Troy, MI; Tata Technologies, Novi, MI; University of Delaware—Center for Composite Materials, Newark, DE; and Vectron International, Hudson, NH, have been added as parties to this venture.

Also, A&P Technology, Inc., Cincinnati, OH; Analysis, Integration & Design, Inc. (AIDI), Melbourne, FL; Bayer MaterialScience, LLC, Pittsburgh, PA; Bi-Phase Technologies, LLC, Eagen, MN; Connecticut Center for Advanced Technology, Inc. (CCAT), East Hartford, CT; Curtiss-Wright Surface Technologies, Duncan, SC; Detroit Regional Chamber, Detroit, MI; Engineering Technology Associates, Inc. (ETA), Troy, MI; Fraunhofer USA, Inc., Plymouth, MI; General Motors, LLC, Wixom, MI; Goodrich Corporation, Charlotte, NC; Gravikor, Inc., Ann Arbor, MI; H.A. Burrow Pattern Works, Inc., Joliet, MT; Ilumisys, Inc., Troy, MI; Imaginestics, LLC, West Lafayette, IN; Koops, Inc., Holland, MI; MAG–IAS, LLC, Hebron, KY; Michigan Department of Environmental Quality, Lansing, MI; Microsoft Corporation, Seattle, WA; PARC, a Xerox Company, Palo Alto, CA; Parker-Hannifin Corporation, Plymouth, MI; Perfect Point, Inc., Plymouth Meeting, PA; QinetiQ North America, Inc., McLean, VA; Radian Precision, Inc., Madison Heights, MI; RW Appleton & Company, Inc., Sterling Heights, MI; Tabor Communications, Inc. (TCI), San Diego, CA; Technical Objectives Professionals, LLC (TOP Inc.), Kasson, MN; TotalSim, LLC, Dublin, OH; University of California, Los Angeles (UCLA), Los Angeles, CA; University of Massachusetts—Lowell, Lowell, CA; and Wayne State University, Detroit, MI, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NCMS intends to file additional written notifications disclosing all changes in membership.

On February 20, 1987, NCMS filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 17, 1987 (52 FR 8375).

The last notification was filed with the Department on March 25, 2014. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on April 30, 2014 (79 FR 24451).

**Patricia A. Brink,**

*Director of Civil Enforcement, Antitrust Division.*

[FR Doc. 2016–15964 Filed 7–5–16; 8:45 am]

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## DEPARTMENT OF JUSTICE

## Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act Of 1993—Pistoia Alliance, Inc

Notice is hereby given that, on May 31, 2016, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Pistoia Alliance, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, IPQ Analytics LLC, Kennett Square, PA; Novaseek Research, Cambridge, MA; and Accenture, Berwyn, PA, have been added as parties to this venture.

Also, Oracle America Inc., Redwood Shores, CA, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Pistoia Alliance, Inc. intends to file additional written notifications disclosing all changes in membership.

On May 28, 2009, Pistoia Alliance, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on July 15, 2009 (74 FR 34364).

The last notification was filed with the Department on March 8, 2016. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on April 14, 2016 (81 FR 22119).

**Patricia A. Brink,**

*Director of Civil Enforcement, Antitrust Division.*

[FR Doc. 2016–15968 Filed 7–5–16; 8:45 am]

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## DEPARTMENT OF JUSTICE

## Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—IMS Global Learning Consortium, Inc

Notice is hereby given that, on June 8, 2016, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), IMS Global Learning Consortium, Inc. (''IMS Global'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Advanced Distributed Learning Initiative, Alexandria, VA; American Printing House for the Blind, Inc., Louisville, KY; Brandman University, Irvine, CA; Clever, San Francisco, CA; Concentric Sky, Eugene, OR; Digital Knowledge EdTech Lab Inc., Taito-Ku, Tokyo, JAPAN; Infinite Campus, Blaine, MN; Macmillan Learning, New York, NY; NetLearning Holdings, Inc., Shinjuku-ku, Tokyo, JAPAN; Research Center for Computing and Multimedia Studies, Hosei University; Koganei City, Tokyo, JAPAN; University of Central Florida Board of Trustees, Orlando, FL; and Volusia County Schools; DeLand, FL, have been added as parties to this venture.

Also, UMASSOnline, Shrewsbury, MA; Apereo, Ann Arbor, MI; PsyDev, Sheffield, UNITED KINGDOM; and Samsung Electronics, Gyeonggi-do, REPUBLIC OF KOREA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IMS Global intends to file additional written notifications disclosing all changes in membership.

On April 7, 2000, IMS Global filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on September 13, 2000 (65 FR 55283).

The last notification was filed with the Department on March 18, 2016. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on April 18, 2016 (81 FR 22633).

**Patricia A. Brink,**

*Director of Civil Enforcement, Antitrust Division.*

[FR Doc. 2016–15965 Filed 7–5–16; 8:45 am]

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## DEPARTMENT OF JUSTICE

## Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—American Society of Mechanical Engineers

Notice is hereby given that, on May 31, 2016, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the American Society of Mechanical Engineers (''ASME'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, since January 26, 2016, ASME has initiated two new standards activities within the general nature and scope of ASME's standards development activities, as specified in its original notification, and has discontinued three standards activities. More detail regarding these changes can be found at *www.asme.org.*

On September 15, 2004, ASME filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on October 13, 2004 (69 FR 60895).

The last notification with the Attorney General was filed on January 28, 2016. A notice was filed in the **Federal Register** on February 26, 2016 (81 FR 9883).

**Patricia A. Brink,**

*Director of Civil Enforcement, Antitrust Division.*

[FR Doc. 2016–15967 Filed 7–5–16; 8:45 am]

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## DEPARTMENT OF JUSTICE

## Drug Enforcement Administration

## Prianglam Brooks, N.P.; Decision and Order

On April 14, 2015, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Prianglam Brooks, N.P. (Respondent), of Houston, Texas. GX 1, at 1. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration MB1907611, which authorizes her to dispense controlled substances in schedules III through V as a mid-level practitioner, as well as the denial of any pending applications to renew or modify her registration and any applications for any other DEA registration, because she does "not have authority to handle controlled substances in the State of Texas, the [S]tate in which" she is registered with DEA. *Id.* (citing 21 U.S.C. 802(21), 823(f) and 824(a)(3)).

More specifically, the Show Cause Order alleged that effective February 17, 2015, the Texas Board of Nursing (TBN) issued a summary suspension of Respondent's "nurse practitioner license" and her "Advanced Practice Registered Nurse License with Prescription Authorization," resulting in her loss of authority under Texas law "to handle controlled substances in the State of Texas." *Id.* The Order thus notified Respondent that her DEA registration was subject to revocation based upon her "lack of authority to handle controlled substances in the State of Texas." *Id.* (citing 21 U.S.C. 802(21), 823(f) and 824(a)(3)).

The Show Cause Order also notified Respondent of her right to request a hearing on the allegations or to submit a written statement while waving her right to a hearing, the procedure for electing either option, and the consequence for failing to elect either option. *Id.* at 2 (*citing* 21 CFR 1301.43). On April 29, 2015, a DEA Diversion Investigator personally served the Show Cause Order on Respondent. GX 4.

On May 18, 2015, the Office of Administrative Law Judges received a letter from an attorney representing Respondent. GX 5. Therein, Respondent waived her right to a hearing and provided a written statement of her position on the matters of fact and law asserted by the Government. GX 5, at 2–3.

On February 16, 2016, the Government submitted a Request for Final Agency Action along with the Investigative Record and Respondent's Statement of Position. Having considered the record in its entirety, I make the following findings of fact.

### Findings

Respondent is the holder of DEA Certificate of Registration MB1907611, pursuant to which she is authorized to dispense controlled substances in schedules III through V, as a mid-level practitioner, at the registered location of Prillenium Healthcare, 6260 WestPark Drive, Suite 260, Houston, Texas. GX 2. Her registration was last renewed in June 2014 and expires on July 31, 2017. *Id.*

Respondent is also the holder of Advanced Practice Registered Nurse License No. AP119040 with Prescription Authorization No. 10237 and Permanent Registered Nurse License No. 784525 issued by the Texas Board of Nursing. GX 3. However, on February 17, 2015, the Board ordered the temporary suspension of Respondent's licenses, finding that her continued practice as a nurse "constitutes a continuing and imminent threat to the public welfare." GX 3, at 1.

As support for its imminent threat finding, the Board found that Respondent, while employed as a family nurse practitioner and owner of Prillenium Healthcare, prescribed 8,614 dangerous cocktail drugs without therapeutic benefit and failed to individually assess each patient and develop an individualized treatment plan. *Id.* at 1–2 (citations omitted). The Board also found that "Respondent's non-therapeutic prescribing practices constitute grounds for disciplinary action." *Id.* at 2 (citations omitted).

The Board also found that "[o]n or about October 7, 2014 through December 12, 2014 . . . Respondent issued 410 prescriptions for hydrocodone, a Schedule II controlled substance, to patients not in a hospital setting or receiving hospice care." *Id.* Finding that Respondent "does not have prescriptive authority to issue prescription for schedule II controlled substances," the Board also found that "Respondent's prescribing practice . . . places patients at risk and endangers public safety." *Id.* The Board then alleged that Respondent's prescribing of schedule II controlled substances constitutes grounds for disciplinary action. *Id.* (citations omitted).

The Board further found that Respondent owned and operated a pain clinic in violation of a state regulation, and that she issued prescriptions from a location not registered with the Texas Medical Board. *Id.* (citations omitted). The Board alleged that this conduct also constitutes grounds for disciplinary action. *Id.*

The Board's Order mandated that both a probable cause hearing and a final hearing on the matter be conducted within 60 days of the entry of its order. *Id.* at 3. According to Respondent's statement, a hearing was held on April 7, 2015, at which a state administrative law judge "extended the temporary suspension finding probable cause of a continuing and imminent threat to the public safety." GX 5, at 2. According to an online query of the Board's Web site, all of Respondent's licenses remained suspended as of the date of this Order. *See http://www.Board.texas.gov/forms/apnrslt.asp.*

In her Statement, Respondent contends that the Show Cause Order mischaracterizes the Board's temporary suspension as a " 'summary suspension.' " GX 5, at 2. Respondent argues that the Board's February 17, 2015 temporary suspension was imposed "prior to notice and hearing." *Id.* While Respondent acknowledges that the Board provided her with "a probable cause hearing," after which it found that she poses "a continuing and imminent threat to the public safety" and thus continued the suspension," she argues that "this is not a final order" and that a final hearing "has yet to be scheduled." *Id.* (citation omitted).

Respondent admits that she is not currently authorized to prescribe any medications in Texas. *Id.* at 3. She contends, however, that because the temporary suspension "is not a final order" of the Board, DEA's authority under 21 U.S.C. 824(a)(3) must be considered in light of the its authority under subsection 824(d), the provision which authorizes the Attorney General to suspend a registration based upon a finding of imminent danger to public health or safety. *Id.* Respondent thus argues that because a suspension under section 824(d) "runs until the conclusion of such proceeding, including judicial review, . . . the principle of comity . . . suggest[s] that while a suspension of [her] registration may be appropriate [contingent on the outcome of the Board proceeding], a revocation is not appropriate." *Id.*

## Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of this title, "upon a finding that the registrant . . . has had [her] State license . . . suspended . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances." Also, DEA has long held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., Frederick Marsh Blanton,* 43 FR 27616, 27617 (1978) ("State authorization to dispense or otherwise handle controlled substances is a prerequisite to the issuance and maintenance of a Federal controlled substances registration."); *James L. Hooper,* 76 FR 71371 (2011), *pet. for rev. denied,* 481 Fed. Appx. 826 (4th Cir. 2012).

This rule derives from the text of two provisions of the Controlled Substances. First, Congress defined "the term 'practitioner' [to] mean[ ] a . . . physician . . . or other person licensed, registered or otherwise permitted, by . . . the jurisdiction in which [s]he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice." 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that "[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which [s]he practices." 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the Act, DEA has long held that revocation of a practitioner's registration is the appropriate sanction whenever she is no longer authorized to dispense controlled substances under the laws of the State in which she practices medicine. *See, e.g., Calvin Ramsey,* 76 FR 20034, 20036 (2011); *Sheran Arden Yeates, M.D.,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci,* 58 FR 51104, 51105 (1993); *Bobby Watts,* 53 FR 11919, 11920 (1988).

This is so even where, as here, the state board has imposed a suspension of a practitioner's dispensing authority prior to providing a hearing and the practitioner has yet to be afforded the opportunity to challenge the basis of the state board's action. *See, Ramsey* 76 FR at 20036 (citations omitted). As the Agency previously explained: "Under the CSA, it does not matter whether the suspension is for a fixed term or for a duration which has yet to be determined because it is continuing pending the outcome of a state proceeding. Rather, what matters—as DEA has repeatedly held—is whether Respondent is without authority under [state] law to dispense a controlled substance." *Bourne Pharmacy, Inc.,* 72 FR 18273, 18274 (2007) (citation omitted). *Cf. James L. Hooper,* 76 FR 71371 (2011) (collecting cases); *Blanton,* 43 FR 27616 (1978) (revoking registration of physician whose medical license had been suspended for one year, but thereafter, would have his license restored subject to probationary conditions; "[a]s a result of the suspension of his medical license, the [r]espondent is no longer authorized to dispense or otherwise handle controlled substances under the laws of Florida. Accordingly . . . the [r]espondent's DEA registration must be revoked"). *See also Rezik A. Saqer,* 81 FR 22122, 22126 (2016).

Because the CSA clearly makes the possession of state authority a condition for maintaining a practitioner's registration, it is of no consequence that the Texas Board's temporary suspension order is not a final order of the Board. As for her contention that the principle of comity suggests that I should impose a suspension rather than a revocation, revoking her registration in no manner interferes with the Texas Board's authority to adjudicate the allegations it has raised against her.[1] Respondent remains free to challenge the allegations raised by the State before the Board, and in the event she prevails, she can immediately apply for a new DEA registration.

Accordingly, because it is undisputed that Respondent's Texas Advanced Practice Nursing License and Prescription Authority remains suspended, I find that she no longer has authority under the laws of Texas, the State in which she is registered, to dispense controlled substances. Therefore, she is not entitled to maintain her DEA registration. Accordingly, I will order that her registration be revoked and that any pending applications be denied.

## Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration MB1907611, issued to Prianglam Brooks, N.P., be, and it hereby is, revoked. I further order that any application of Prianglam Brooks, N.P., to renew or modify this registration, be, and it hereby is, denied. This Order is effective immediately.[2]

Dated: June 27, 2016.

**Chuck Rosenberg,**

*Acting Administrator.*

[FR Doc. 2016–15955 Filed 7–5–16; 8:45 am]

**BILLING CODE 4410–09–P**

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# DEPARTMENT OF JUSTICE

## Foreign Claims Settlement Commission

## [F.C.S.C. Meeting and Hearing Notice No. 6–16]

## Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations

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[1] Respondent's invocation of 21 U.S.C. 824(d) provides no support for her contention that comity suggests that I suspend rather than revoke her registration. That provision governs the exercise of the Agency's authority to immediately suspend a DEA registration, "simultaneously with the institution of proceedings under" section 824(a), based upon a finding that a registrant poses "an imminent danger to public health or safety." The provision says nothing about the Agency's authority where a registrant's state authority has been suspended prior to hearing. Section 824(a) does, however, and while it provides the Attorney General with discretionary authority to suspend or revoke upon making one or more of the five enumerated findings, for the reasons explained above, the specific provisions that apply to practitioners establish that a registrant who loses her state authority no longer meets the definition of a practitioner and cannot retain her registration even in a suspended status.

[2] For the same reasons which led the Nursing Board to conclude that the continued practice of nursing by Respondent constitutes "a continuing and imminent threat to public welfare" and to order the summary suspension of Respondent's licenses, I conclude that the public interest necessitates that this Order be effective immediately. 21 CFR 1316.67.

(45 CFR part 503.25) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings as follows:

*Wednesday, July 13, 2016:* 10:00 a.m.—Issuance of Proposed Decisions in claims against Iraq.

11:00 a.m.—Issuance of Proposed Decisions in claims against Libya.

*Status:* Open.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street NW., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Patricia M. Hall, Foreign Claims Settlement Commission, 600 E Street NW., Suite 6002, Washington, DC 20579. Telephone: (202) 616–6975.

**Brian M. Simkin,**
*Chief Counsel.*

[FR Doc. 2016–16091 Filed 7–1–16; 4:15 pm]

**BILLING CODE 4410–ba–P**

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## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Partial Consent Decree Under the Clean Air Act

On June 28, 2016, the Department of Justice lodged a proposed Partial Consent Decree with the United States District Court for the Northern District of California in the lawsuit entitled *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation,* Case No: MDL No. 2672 CRB (JSC), partially resolving Clean Air Act and various California claims (including under the California Health and Safety Code) against Volkswagen Group of America, Inc., and others, concerning certain noncompliant 2.0 liter diesel vehicles. In addition, the Federal Trade Commission ("FTC") filed a related proposed Partial Stipulated Order for Permanent Injunction and Monetary Judgment with Volkswagen ("FTC Order"), and the private Plaintiffs' Steering Committee ("PSC") filed a proposed Consumer Class Action Settlement Agreement and Release ("Class Action Settlement") with Volkswagen with respect to the 2.0 liter diesel vehicles on the same date. The three settlements resolve separate claims but offer coordinated relief.

On January 4, 2016, the United States, on behalf of the Environmental Protection Agency ("EPA") filed a complaint against Volkswagen AG, Volkswagen Group of America, Inc., Volkswagen Group of America Chattanooga Operations, LLC, Audi AG, Dr. Ing. h.c. F. Porsche AG, and Porsche Cars North America, Inc. alleging that the defendants violated Sections 203(a)(1), (2), (3)(A), and (3)(B) of the Clean Air Act ("Act"), 42 U.S.C. 7522(a)(1), (2), (3)(A), and (3)(B), with regard to approximately 500,000 model year 2009 to 2015 motor vehicles containing 2.0 liter diesel engines (2.0 Liter Subject Vehicles) and approximately 80,000 model year 2009 to 2016 motor vehicles containing 3.0 liter diesel engines (3.0 Liter Subject Vehicles). The United States' complaint alleges that each 2.0 and 3.0 Liter Subject Vehicle contains computer algorithms that are prohibited defeat devices that cause the emissions control system of those vehicles to perform differently during normal vehicle operation and use than during emissions testing. The complaint alleges that the defeat devices cause the vehicles, during normal vehicle operation and use, to emit levels of oxides of nitrogen ("$NO_X$") significantly in excess of EPA-compliant levels. The complaint seeks, among other things, injunctive relief to remedy the violations, including mitigation of excess $NO_X$ emissions, and civil penalties.

On June 27, 2016, the People of the State of California ("California"), by and through the California Air Resources Board ("CARB") and the California Attorney General filed a complaint against defendants alleging that defendants violated Cal. Health & Safety Code §§ 43106, 43107, 43151, 43152, 43153, 43205, 43211, and 43212; Cal. Code Regs. tit. 13, §§ 1903, 1961, 1961.2, 1965, 1968.2, and 2037, and 40 CFR Sections incorporated by reference in those California regulations; Cal. Bus. & Prof. Code §§ 17200 *et seq.,* 17500 *et seq.,* and 17580.5; Cal. Civ. Code § 3494; and 12 U.S.C. 5531 *et seq.,* with regard to approximately 71,000 model year 2009 to 2015 motor vehicles containing 2.0 liter diesel engines and approximately 16,000 model year 2009 to 2016 motor vehicles containing 3.0 liter diesel engines, for a total of approximately 87,000 motor vehicles. The California complaint alleges, in relevant part, that the motor vehicles contain prohibited defeat devices and have resulted in, and continue to result in, increased $NO_X$ emissions from each such vehicle significantly in excess of CARB requirements, that these vehicles have resulted in the creation of a public nuisance, and that defendants engaged in related conduct that violated unfair competition, false advertising, and consumer protection laws.

This Partial Consent Decree ("Decree") is entered into between the United States, California, and certain of the defendants, namely, Volkswagen AG, Volkswagen Group of America, Inc., Volkswagen Group of America Chattanooga Operations, LLC, and Audi AG (collectively, "Volkswagen"). The Decree partially resolves the governments' claims for injunctive relief with respect to the 2.0 Liter Subject Vehicles, by providing remedies for the cars on the road and the environmental harm from the violations. It does not address the governments' claims, *inter alia,* for prospective injunctive relief to prevent future violations of the same type that are alleged in the complaints, claims for civil penalties, or claims regarding the 3.0 liter Subject Vehicles. Because the Decree only addresses 2.0 Liter Subject Vehicles, and the Porsche defendants only manufacture 3.0 liter diesel vehicles for the United States market, no claims against the Porsche defendants are settled under this Decree.

Under the Decree, Volkswagen must offer all Eligible Owners and Lessees of Eligible Vehicles (all as defined in Appendix A to the Decree) the option to have Volkswagen buy back their cars or to terminate their leases at no cost. In addition, the Decree permits Volkswagen to submit for EPA and CARB review and approval, a proposal for modifying the 2.0 Liter Subject Vehicles to reduce emissions. If EPA and CARB approve an emissions modification for any category of the 2.0 Liter Subject Vehicles, Volkswagen must also offer all Eligible Owners and Lessees of an Eligible Vehicle the additional option of receiving an emissions modification in lieu of a buyback. Volkswagen must achieve a recall rate (through the buyback, lease termination, scrapped vehicles, and the emissions modification option, if approved) of 85% by June 30, 2019. If it fails to do so, Volkswagen must augment the mitigation trust fund discussed below by $85 million for each 1% that it falls short of the 85% rate. Volkswagen must also achieve a separate 85% recall rate for vehicles in California, and must pay $13.5 million to the mitigation trust (solely for mitigation projects in California) for each 1% that it falls short of this target. *See* Decree Section IV.D and Appendices A and B.

In connection with the buyback, Volkswagen must pay Eligible Owners no less than the cost of the retail purchase of a comparable replacement vehicle of similar value, condition and mileage as of September 17, 2015, the day before the existence of the defeat devices was made known to the public ("retail replacement value"). The Decree acknowledges that Volkswagen may satisfy this obligation through offering the payments required by the FTC Order and the Class Action Settlement, which are at least equal to the retail replacement value. The buyback/lease termination program under the Decree remains open for two years after the Decree is entered by the Court. *See* Decree Section IV.A and Appendix A. If EPA and CARB approve an emissions modification, Volkswagen must offer it to consumers indefinitely. *See* Decree Section IV.B and Appendices A and B.

Volkswagen has set aside a defined funding pool for consumer payments associated with the buyback, lease termination, and emissions modification compensation programs pursuant to the requirements of this Decree and the related FTC Order and Class Action Settlement, and may fund consumer payments in connection with buyback, lease termination, and emissions modifications up to $10,033,000,000.

In addition, under the Decree, Volkswagen must fund a trust over three years in the total amount of $2.7 billion, which states, Puerto Rico, the District of Columbia, and Indian tribes can use to perform specified NOx mitigation projects. This amount is expected to fund projects to fully mitigate the total, lifetime excess emissions from the 2.0 Liter Subject Vehicles. *See* Decree Section IV.D and Appendix D. The trust will be administered by a trustee to be selected after the Decree is entered.

Finally, Volkswagen must invest $2 billion over a 10-year period to support the increased use of zero emission vehicle (''ZEV'') technology in the United States, including the development and maintenance of ZEV charging stations and infrastructure. *See* Consent Decree Section IV.C and Appendix C.

The publication of this notice opens a period for public comment on the Partial Consent Decree. Comments concerning the Partial Consent Decree (but not concerning the FTC Order or Class Action Settlement) should be addressed to the Assistant Attorney General, Environment and Natural Resources Division and should refer to *In re: Volkswagen ''Clean Diesel'' Marketing, Sales Practices, and Products Liability Litigation,* Case No: MDL No. 2672 CRB (JSC), and D.J. Ref. No. 90–5–2–1–11386.

All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

| *To submit comments:* | *Send them to:* |
|---|---|
| By email ....... | *pubcomment-ees.enrd@usdoj.gov.* |
| By mail ......... | Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, D.C. 20044–7611. |

The Partial Consent Decree, the FTC Order, and the Class Action Settlement may all be viewed and downloaded from *http://www.cand.uscourts.gov/crb/vwmdl.* During the public comment period, the Partial Consent Decree may also be examined and downloaded at this Justice Department Web site: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Partial Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

For the entire Partial Consent Decree and its appendices, please enclose a check or money order for $55.25 (25 cents per page reproduction cost) payable to the United States Treasury. For a copy of certain portions of the Partial Consent Decree, please designate which portions are requested, and provide the appropriate amount of money. For the Partial Consent Decree without the exhibits and signature pages, the cost is $13.50. For Appendix A, the cost is $3.25. For Appendix B, the cost is $17.25. For Appendix C, the cost is $8.50. For Appendix D, the cost is $10.75.

**Karen S. Dworkin,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2016–15858 Filed 7–5–16; 8:45 am]

**BILLING CODE 4410–15–P**

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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice (16–045)]**

## Notice of Intent To Grant a Partially Exclusive License

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of Intent to Grant a Partially Exclusive License.

**SUMMARY:** This notice is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant a partially exclusive license in the United States to practice the invention described and claimed in U.S. Patent No. 7,086,593 B2 titled ''Magnetic Field Response Measurement Acquisition System,'' NASA Case No. LAR–16908–1; U.S. Patent No. 7,047,807 B2 titled ''Flexible Framework for Capacitive Sensing,'' NASA Case No. LAR–16974–1; U.S. Patent No. 7,159,774 B2 titled ''Magnetic Field Response Measurement Acquisition System,'' NASA Case No. LAR–17280–1; U.S. Patent No. 8,167,204 B2 titled ''Wireless Damage Location Sensing System,'' NASA Case No. LAR–17593–1; U.S. Patent No. 8,179,203 B2 titled ''Wireless Electrical Device Using Open-Circuit Elements Having No Electrical Connections,'' NASA Case No. LAR–17711–1; U.S. Patent No. 8,430,327 B2 titled ''Wireless Sensing System Using Open-Circuit, Electrically-Conductive Spiral-Trace Sensor,'' NASA Case No. LAR–17294–1; U.S. Patent Application No. 14/520,785 titled ''Multi-Layer Wireless Sensor Construct for Use at Electrically Conductive Material Surfaces,'' NASA Case No. LAR–18399–1; U.S. Patent Application No. 14/520,863 titled ''Antenna for Far Field Transceiving,'' NASA Case No. LAR–18400–1; U.S. Patent Application No. 14/520,679 titled ''Plasma Generator Using Spiral Conductors,'' NASA Case No. LAR–18401–1, to Remcal Products having its principal place of business in Warrington, PA. The fields of use may be limited to, but not necessarily limited to, nondestructive evaluation and testing of manufactured products (including molded plastic parts, rubber parts, extruded parts and machined parts) using hand-held probes and/or custom-designed test assemblies. The patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective partially exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

**DATES:** The prospective partially exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR. 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated partially exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

**ADDRESSES:** Objections relating to the prospective license may be submitted to Patent Counsel, Office of Chief Counsel, MS 30, NASA Langley Research Center, Hampton, VA 23681; (757) 864–3230 (phone), (757) 864–9190 (fax).

**FOR FURTHER INFORMATION CONTACT:** Robin W. Edwards, Patent Counsel, Office of Chief Counsel, MS 30, NASA Langley Research Center, Hampton, VA 23681; (757) 864–3230; Fax: (757) 864–9190. Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov.*

**Mark P. Dvorscak,**
*Agency Counsel for Intellectual Property.*

[FR Doc. 2016–15860 Filed 7–5–16; 8:45 am]

**BILLING CODE 7510–13–P**

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## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

**[NARA–2016–040]**

### Records Schedules; Availability and Request for Comments

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Notice of availability of proposed records schedules; request for comments.

**SUMMARY:** The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when agencies no longer need them for current Government business. The records schedules authorize agencies to preserve records of continuing value in the National Archives of the United States and to destroy, after a specified period, records lacking administrative, legal, research, or other value. NARA publishes notice in the **Federal Register** for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

**DATES:** NARA must receive requests for copies in writing by August 5, 2016. Once NARA finishes appraising the records, we will send you a copy of the schedule you requested. We usually prepare appraisal memoranda that contain additional information concerning the records covered by a proposed schedule. You may also request these. If you do, we will also provide them once we have completed the appraisal. You have 30 days after we send to you these requested documents in which to submit comments.

**ADDRESSES:** You may request a copy of any records schedule identified in this notice by contacting Records Appraisal and Agency Assistance (ACRA) using one of the following means:

*Mail:* NARA (ACRA); 8601 Adelphi Road; College Park, MD 20740–6001.

*Email: request.schedule@nara.gov.*

*FAX:* 301–837–3698.

You must cite the control number, which appears in parentheses after the name of the agency that submitted the schedule, and a mailing address. If you would like an appraisal report, please include that in your request.

**FOR FURTHER INFORMATION CONTACT:** Margaret Hawkins, Director, by mail at Records Appraisal and Agency Assistance (ACRA), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001, by phone at 301–837–1799, or by email at *request.schedule@nara.gov.*

**SUPPLEMENTARY INFORMATION:** Each year, Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing records retention periods and submit these schedules for NARA's approval. These schedules provide for timely transfer into the National Archives of historically valuable records and authorize the agency to dispose of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless otherwise specified. An item in a schedule is media neutral when an agency may apply the disposition instructions to records regardless of the medium in which it creates or maintains the records. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is expressly limited to a specific medium. (See 36 CFR 1225.12(e).)

Agencies may not destroy Federal records without Archivist of the United States' approval. The Archivist approves destruction only after thoroughly considering the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value.

In addition to identifying the Federal agencies and any subdivisions requesting disposition authority, this notice lists the organizational unit(s) accumulating the records (or notes that the schedule has agency-wide applicability when schedules cover records that may be accumulated throughout an agency); provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction); and includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it also includes information about the records. You may request additional information about the disposition process at the addresses above.

**Schedules Pending**

1. Department of Agriculture, Agricultural Research Service (DAA–0310–2014–0003, 10 items, 10 temporary items). Correspondence, reports, contracts, agreements, and experimental data related to agricultural research projects.

2. Department of Agriculture, Farm Service Agency (DAA–0145–2015–0001, 3 items, 2 temporary items). Records related to the Conservation Reserve Program, including correspondence, reports, contract folders, and payment documents. Proposed for permanent retention are significant case files.

3. Department of the Army, Agency-wide (DAA–AU–2016–0032, 1 item, 1 temporary item). Master files of an electronic information system that contains records relating to contracts and contractor personnel in Germany.

4. Department of Defense, Defense Threat Reduction Agency (DAA–0374–2012–0002, 1 item, 1 temporary item). Records regarding the security clearance of individual personnel including interviews, assessments, and investigative reports.

5. Department of Homeland Security, United States Secret Service (DAA–0087–2016–0001, 4 items, 4 temporary

items). Accreditation records relating to an agency training facility and courses.

6. Department of the Treasury, Bureau of Fiscal Service (DAA–0425–2016–0009, 2 items, 2 temporary items). Records used to stop potentially improper payments by Federal agencies.

7. Department of the Treasury, Internal Revenue Service (DAA–0058–2016–0016, 1 item, 1 temporary item). Case files for corrections to agency employee retirement plans.

8. Commodity Futures Trading Commission, Risk Surveillance (DAA–0180–2014–0001, 3 items, 3 temporary items). Hypothetical fiscal projections and reports used to perform market risk analysis.

9. National Archives and Records Administration, Government-wide (DAA–GRS–2016–0004, 2 items, 2 temporary items). A General Records Schedule for continuity and emergency planning records.

10. National Archives and Records Administration, Government-wide (DAA–GRS–2016–0005, 5 items, 5 temporary items). A General Records Schedule for records related to public communications and information exchanges between the Federal government, citizens, and stakeholders, including routine operational records for public affairs offices, public correspondence requiring no formal action, product production files, routine media relations records, and routine audiovisual records.

**Laurence Brewer,**

*Chief Records Officer for the U.S. Government.*

[FR Doc. 2016–15962 Filed 7–5–16; 8:45 am]

**BILLING CODE 7515–01–P**

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## NUCLEAR REGULATORY COMMISSION

**[NRC–2015–0106]**

## Standard Review Plan for Renewal of Specific Licenses and Certificates of Compliance for Dry Storage of Spent Nuclear Fuel

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** NUREG; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing NUREG–1927, Revision 1, "Standard Review Plan for Renewal of Specific Licenses and Certificates of Compliance for Dry Storage of Spent Nuclear Fuel." The NUREG provides guidance to the NRC staff for the safety review of renewal applications for specific licenses of independent spent fuel storage installations (ISFSIs) and certificates of compliance of spent fuel dry storage systems.

**ADDRESSES:** Please refer to Docket ID NRC–2015–0106 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0106. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select "*ADAMS Public Documents*" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** Kristina Banovac, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7116, email: *Kristina.Banovac@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Discussion

The NRC staff is issuing NUREG–1927, Revision 1 (ADAMS Accession No. ML16179A148), to provide greater detail and clarity for the various elements of the staff's safety review of renewal applications for specific ISFSI licenses and certificates of compliance of spent fuel dry storage systems.

Through the development of NUREG–1927, Revision 1, the staff engaged with stakeholders in public meetings to obtain input on potential changes to the guidance. The staff developed the draft NUREG–1927, Revision 1, which addressed the staff's recent review experience with spent fuel storage renewal reviews and the valuable input received from stakeholders. The draft NUREG–1927, Revision 1, was published for public comment on July 7, 2015 (80 FR 38780). The staff considered public comments received on the draft guidance in preparing the final NUREG–1927, Revision 1. The public comments are located in ADAMS under Accession No. ML15356A560. The staff also prepared responses to the public comments (ADAMS Accession No. ML16125A534).

### II. Backfitting and Issue Finality Provisions

NUREG–1927, Revision 1, provides guidance to the NRC staff for the safety review of renewal applications for specific ISFSI licenses and certificates of compliance of spent fuel dry storage systems. This revision to NUREG–1927 does not present a new staff position, but only clarifies and expands upon information previously provided. Issuance of this NUREG would not constitute backfitting as defined in the backfitting provisions in section 72.62 of title 10 of the *Code of Federal Regulations* (10 CFR), which are applicable to specific ISFSI licensees. Issuance of the NUREG would also not constitute backfitting under 10 CFR 50.109, or otherwise be inconsistent with the issue finality provisions in 10 CFR part 52, which are applicable to general ISFSI licensees using the certificates of compliance. The NRC's position is based upon the following considerations.

*1. The NUREG positions do not constitute backfitting, inasmuch as the NUREG is internal guidance directed at the NRC staff with respect to their regulatory responsibilities.*

The NUREG provides guidance to the staff on how to review an application for the NRC's regulatory approval in the form of licensing. Changes in internal staff guidance are not matters for which ISFSI applicants or general ISFSI licensees using certificates of compliance are protected under the backfitting provisions in 10 CFR 72.62 and 10 CFR 50.109, or the issue finality provisions of 10 CFR part 52.

*2. The NRC staff has no intention to impose the NUREG positions on existing licensees and regulatory approvals, either now or in the future.*

The staff does not intend to impose or apply the positions described in the NUREG to existing (already issued) licenses and regulatory approvals. Therefore, the issuance of this NUREG—even if considered guidance which is within the purview of the issue finality provisions in part 52—need not be evaluated as if it were a backfit or as being inconsistent with issue finality provisions. If, in the future, the staff seeks to impose a position in the NUREG on holders of already issued licenses in a manner which does not provide issue finality as described in the applicable issue finality provision, then the staff must make the showing as set forth in the backfitting provisions in 10 CFR 72.62 and 10 CFR 50.109, or address the criteria for avoiding issue finality as described in the applicable issue finality provision in 10 CFR part 52.

3. *Backfitting and issue finality do not—with limited exceptions not applicable here—protect current or future applicants.*

Applicants and potential applicants are not, with certain exceptions, protected by the backfitting provisions in 10 CFR 72.62 or 10 CFR 50.109, or any issue finality provisions under part 52. This is because neither of the backfitting provisions in parts 72 and 50, nor the issue finality provisions under part 52—with certain exclusions discussed below—were intended to apply to every NRC action which substantially changes the expectations of current and future applicants. The exceptions to the general principle are applicable whenever an applicant references a part 52 license (*e.g.,* an early site permit) and/or NRC regulatory approval (*e.g.,* a design certification rule) with specified issue finality provisions. However, the matters address in this NUREG are not subject matters or issues for which issue finality protection is provided.

## III. Congressional Review Act

This NUREG is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

Dated at Rockville, Maryland, this 28 day of June 2016.

For the Nuclear Regulatory Commission.

**Anthony H. Hsia,**

*Deputy Director, Division of Spent Fuel Management, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 2016–15951 Filed 7–5–16; 8:45 am]

**BILLING CODE 7590–01–P**

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## OFFICE OF PERSONNEL MANAGEMENT

### Submission for Review: Presidential Management Fellows (PMF) Application, 3206–0082

**AGENCY:** U.S. Office of Personnel Management.

**ACTION:** 60-Day notice and request for comments.

**SUMMARY:** The Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on a reinstatement, with change, of a previously approved collection for which approval has expired, for information collection request (ICR) 3206–0082, Presidential Management Fellows (PMF) Application. As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35), as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection on behalf of the Office of Management and Budget. Changes to this collection include: (1) Reduction in estimated responses, (2) adjustments to the list of degrees\disciplines based on Federal agency estimates (including adjustments for needed STEM (Science, Technology, Engineering, and Mathematics) degrees\disciplines), (3) adjustments to the list of additional skills and attributes based on Federal agency estimates, (4) adjustments to the list of languages based on Federal agency estimates, and (5) the potential to ask applicants preferred geographic location if selected as a Semi-Finalist in choosing an in-person assessment center location.

The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

**DATES:** Comments are encouraged and will be accepted until September 6, 2016. This process is conducted in accordance with 5 CFR 1320.1.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to the U.S. Office of Personnel Management, PMF Program Office, Attention: Rob Timmins, 1900 E Street NW., Room 6500, Washington, DC 20415, or sent via electronic mail to *pmf@opm.gov.*

**FOR FURTHER INFORMATION CONTACT:** A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the U.S. Office of Personnel Management, PMF Program Office, Attention: Rob Timmins, 1900 E Street NW., Room 6500, Washington, DC 20415, or sent via electronic mail to *pmf@opm.gov.*

**SUPPLEMENTARY INFORMATION:** Executive Order 13562, Recruiting and Hiring Students and Recent Graduates, and implementing regulations increased the applicant window of eligibility. Students about to complete an advanced degree and individuals who completed an advanced degree, from an accredited academic institution, within the two years prior to the opening date will use the application to apply for the Presidential Management Fellows (PMF) Program. Advanced degree is defined as a master's, professional, or doctorate degree.

The annual application is available as an embedded link with an announcement posted on USAJOBS (*www.USAJOBS.gov*). Applicants are asked to submit a resume and transcript; submit supporting documentation for claiming veterans' preference or Indian preference, or requesting reasonable accommodations; complete an on-line assessment; and, submit three essays as part of the assessment process. Information on the PMF Program and the application process can be found at *www.pmf.gov.*

## Analysis

*Agency:* U.S. Office of Personnel Management.

*Title:* Presidential Management Fellows (PMF) Application.

*OMB Number:* 3206–0082.

*Affected Public:* Current graduate students who are expected to complete their advanced degree requirements by August 31st of the following year upon applying and individuals who obtained an advanced degree within the previous two years from the annual application launching, from an accredited academic institution.

*Number of Respondents:* 8,200 (average number of applicants from 2013 thru 2016).

*Estimated Time per Respondent:* 15 minutes.

*Total Burden Hours:* 2,050 hours.

U.S. Office of Personnel Management.

**Beth F. Cobert,**

*Acting Director.*

[FR Doc. 2016–15861 Filed 7–5–16; 8:45 am]

**BILLING CODE 6325–43–P**

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## POSTAL REGULATORY COMMISSION

**[Docket No. CP2016–196]**

### New Postal Product

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* July 7, 2016

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202–789–6820.

**SUPPLEMENTARY INFORMATION:**

### Table of Contents

I. Introduction
II. Docketed Proceeding(s)

### I. Introduction

The Commission gives notice that the Postal Service has filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The requests(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

### II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2016–196; *Filing Title:* Notice of the United States Postal Service of Filing Modification to Global Plus 3 Negotiated Service Agreement; *Filing Acceptance Date:* June 27, 2016; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Natalie R. Ward; *Comments Due:* July 7, 2016.

This notice will be published in the **Federal Register**.

**Stacy L. Ruble,**

*Secretary.*

[FR Doc. 2016–15888 Filed 7–5–16; 8:45 am]

**BILLING CODE 7710–FW–P**

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## POSTAL SERVICE

### Temporary Emergency Committee of the Board of Governors; Sunshine Act Meeting

**DATES AND TIMES:** Wednesday, July 13, 2016, at 1:00 p.m.

**PLACE:** via Teleconference.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

**Wednesday, July 13, 2016, at 1:00 p.m.**

1. Strategic Issues.
2. Financial Matters.
3. Pricing.
4. Personnel Matters and Compensation Issues.
5. Executive Session—Discussion of prior agenda items.

**GENERAL COUNSEL CERTIFICATION:** The General Counsel of the United States Postal Service has certified that the meeting may be closed under the Government in the Sunshine Act.

**CONTACT PERSON FOR MORE INFORMATION:** Julie S. Moore, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza SW., Washington, DC 20260–1000, Telephone: (202) 268–4800.

**Julie S. Moore,**

*Secretary.*

[FR Doc. 2016–16051 Filed 7–1–16; 11:15 am]

**BILLING CODE 7710–12–P**

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–78191; File No. SR–NYSEArca–2016–87]**

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to Listing and Trading of Shares of First Trust Horizon Managed Volatility Domestic ETF and First Trust Horizon Managed Volatility Developed International ETF Under NYSE Arca Equities Rule 8.600

June 29, 2016.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on June 16, 2016, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the following under NYSE Arca Equities Rule 8.600 ("Managed Fund Shares"): First Trust Horizon Managed Volatility Domestic ETF and First Trust Horizon Managed Volatility Developed International ETF. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

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[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

### 1. Purpose

The Exchange proposes to list and trade the shares ("Shares") of the following under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares[4] on the Exchange: First Trust Horizon Managed Volatility Domestic ETF and First Trust Horizon Managed Volatility Developed International ETF (each a "Fund" and, collectively, the "Funds").[5] The Shares will be offered by First Trust Exchange-Traded Fund III (the "Trust"), which is organized as a Massachusetts business trust and is registered with the Commission as an open-end management investment company.[6]

The investment adviser to the Funds will be First Trust Advisors L.P. (the "Adviser" or "First Trust"). Horizon Investments, LLC ("Sub-Adviser") will be the sub-adviser to the Funds. First Trust Portfolios L.P. (the "Distributor") will be the principal underwriter and distributor of the Funds' Shares. Brown Brothers Harriman & Co. ("BBH") will serve as administrator, custodian and transfer agent for the Funds.

Commentary .06 to Rule 8.600 provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a "fire wall" between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio.[7] Commentary .06 to Rule 8.600 is similar to Commentary .03(a)(i) and (iii) to NYSE Arca Equities Rule 5.2(j)(3); however, Commentary .06 in connection with the establishment of a "fire wall" between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser and Sub-Adviser are not broker-dealers, but the Adviser is affiliated with First Trust Portfolios L.P., a broker-dealer. The Sub-Adviser is not currently affiliated with a broker-dealer. The Adviser has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolios. In the event (a) the Adviser or the Sub-Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

### First Trust Horizon Managed Volatility Domestic ETF

According to the Registration Statement, the investment objective of the Fund will be to provide capital appreciation. Under normal market conditions,[8] the Fund will seek to achieve its investment objective by investing at least 80% of its net assets (including investment borrowings) in common stocks of domestic companies listed and traded on U.S. national securities exchanges that the Sub-Adviser believes exhibit low future expected volatility. The goal of this strategy will be to capture upside price movements in rising markets and reduce downside risk when markets decline. To implement this strategy, in selecting securities for the Fund from a portfolio of eligible securities, the Sub-Adviser will employ volatility forecasting models to forecast future expected volatility. The strategy will largely be quantitative and rules-based, but will also include multiple parameters over which the Sub-Adviser may exercise discretion (including, but not limited to, the number of holdings and the weightings of particular holdings) in connection with its active management of the Fund.

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[4] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) ("1940 Act") organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[5] The Commission has previously approved listing and trading on the Exchange of a number of actively managed funds under Rule 8.600. *See, e.g.,* Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR–NYSEArca–2008–31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 60460 (August 7, 2009), 74 FR 41468 (August 17, 2009) (SR–NYSEArca–2009–55) (order approving listing of Dent Tactical ETF); 62502 (July 15, 2010), 75 FR 42471 (July 21, 2010) (SR–NYSEArca–2010–57)(order approving listing of AdvisorShares WCM/BNY Mellon Focused Growth ADR ETF); 69251 (March 28, 2013), 78 FR 20162 (April 3, 2013) (SR–NYSEArca–2013–14) (order approving listing of Cambria Shareholder Yield ETF).

[6] The Trust is registered under the 1940 Act. On June 6, 2016, the Trust filed with the Commission an amendment to its registration statement on Form N–1A under the Securities Act of 1933 ("1933 Act") and under the 1940 Act relating to the Funds (File Nos. 333–176976 and 811–22245) ("Registration Statement"). The description of the operation of the Trust and the Funds herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 28468 (October 27, 2008) (File No. 812–13477 ("Exemptive Order").

[7] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the "Advisers Act"). As a result, the Adviser and Sub-Adviser and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[8] The term "under normal market conditions" includes, but is not limited to, the absence of extreme volatility or trading halts in the equity markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

To begin, the Sub-Adviser will gather pricing and generate return data for the starting universe. The Sub-Adviser then will conduct volatility forecasts for all constituents. The constituent securities will then be ranked from low to high based on their volatility forecasts for inclusion in the portfolio. The Sub-Adviser will target a subset of the starting universe as sorted by future expected volatility. Once the final portfolio is selected, the Sub-Adviser will measure co-movements of the selected securities using advanced statistical techniques designed to reduce estimation error. In the final portfolio construction, the Sub-Adviser will give larger weights to securities with lower future expected volatility and will use a "tuning" parameter to adjust how aggressive the weighting scheme is depending on market conditions.

The Fund is classified as "non-diversified" under the 1940 Act.

### First Trust Horizon Managed Volatility Developed International ETF

According to the Registration Statement, the investment objective of the Fund will be to provide capital appreciation. Under normal market conditions, the Fund will seek to achieve its investment objective by investing at least 80% of its net assets (including investment borrowings) in common stocks of developed market companies [9] listed and traded on non-U.S. exchanges that the Sub-Adviser believes exhibit low future expected volatility. The goal of this strategy will be to capture upside price movements in rising markets and reduce downside risk when markets decline. To implement this strategy, in selecting securities for the Fund from a portfolio of eligible securities, the Sub-Adviser will employ volatility forecasting models to forecast future expected volatility. The strategy will largely be quantitative and rules-based, but will also include multiple parameters over which the Sub-Adviser may exercise discretion (including, but not limited to, the number of holdings and the weightings of particular holdings) in connection with its active management of the Fund.

To begin, the Sub-Adviser will gather pricing and generate return data for the starting universe. The Sub-Adviser then will conduct volatility forecasts for all constituents. The constituent securities will then be ranked from low to high based on their volatility forecasts for inclusion in the portfolio. The Sub-Adviser will target a subset of the starting universe as sorted by future expected volatility. Once the final portfolio is selected, the Sub-Adviser will measure co-movements of the selected securities using advanced statistical techniques designed to reduce estimation error. In the final portfolio construction, the Sub-Adviser will give larger weights to securities with lower future expected volatility and will use a "tuning" parameter to adjust how aggressive the weighting scheme is depending on market conditions.[10] The Fund's investments in the common stocks of developed market companies may be in the form of "Depositary Receipts", as described below.[11]

The Fund is classified as "non-diversified" under the 1940 Act.

### Non-Principal Investments

According to the Registration Statement, while each Fund, under normal market conditions, will invest at least 80% of its net assets in the securities and financial instruments described above, a Fund may invest up to 20% of its net assets in the following securities and instruments.

Each Fund may invest in cash and cash equivalents.[12]

The First Trust Horizon Managed Volatility Domestic ETF may invest in exchange-traded ADRs.

### Creation and Redemption of Shares

Each Fund will issue and redeem Shares on a continuous basis at net asset value ("NAV") [13] only in large blocks of Shares ("Creation Units") in transactions with authorized participants, generally including broker-dealers and large institutional investors ("Authorized Participants"). Creation Units generally will consist of 50,000 Shares, although this may change from time to time. Creation Units, however, are not expected to consist of less than 50,000 Shares. As described in the Registration Statement and consistent with the Exemptive Order, a Fund will issue and redeem Creation Units in exchange for an in-kind portfolio of instruments and/or cash in lieu of such instruments (the "Creation Basket").[14] In addition, if there is a difference between the NAV attributable to a Creation Unit and the market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments (which may include cash-in-lieu amounts) with the lower value will pay to the other an amount in cash equal to the difference (referred to as the "Cash Component").

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[9] The term "developed market companies" means those companies (i) whose securities are traded principally on a stock exchange in a developed market country, (ii) that are organized under the laws of, or have a primary business office in, a developed market country, or (iii) that have at least 50% of their assets in, or derive at least 50% of their revenues or profits from, a developed market country.

[10] The non-U.S. equity securities in the Fund's portfolio will meet the following criteria on a continual basis: (1) Non-U.S. equity securities each shall have a minimum market value of at least $100 million; (2) non-U.S. equity securities each shall have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of $25,000,000, averaged over the last six months; (3) the most heavily weighted non-U.S. equity security shall not exceed 25% of the weight of the Fund's entire portfolio, and, to the extent applicable, the five most heavily weighted non-U.S. equity securities shall not exceed 60% of the weight of the Fund's entire portfolio; and (4) each non-U.S. equity security shall be listed and traded on an exchange that has last-sale reporting. For purposes of this filing, the term "non-U.S. equity securities" includes common stocks of foreign corporations and "Depositary Receipts" (as described below, excluding Depositary Receipts that are listed on a U.S. exchange).

[11] Depositary Receipts include American Depositary Receipts ("ADRs"), Global Depositary Receipts ("GDRs") and European Depositary Receipts ("EDRs"). ADRs are receipts typically issued by an American bank or trust company that evidence ownership of underlying securities issued by a foreign corporation. EDRs are receipts issued by a European bank or trust company evidencing ownership of securities issued by a foreign corporation. GDRs are receipts issued throughout the world that evidence a similar arrangement. ADRs, EDRs and GDRs may trade in foreign currencies that differ from the currency the underlying security for each ADR, EDR or GDR principally trades in. Global shares are the actual (ordinary) shares of a non-U.S. company which trade both in the home market and the United States. Generally, ADRs, in registered form, are designed for use in the U.S. securities markets. EDRs, in registered form, are used to access European markets. GDRs, in registered form, are tradable both in the United States and in Europe and are designed for use throughout the world. All Depositary Receipts in which the Fund invests will be traded on a U.S. or a non-U.S. exchange.

[12] For purposes of this filing, cash equivalents are the following: (i) Short-term obligations issued by the U.S. Government that have remaining terms to maturity of not more than 397 days; (ii) negotiable certificates of deposit, fixed time deposits, and bankers' acceptances of U.S. and foreign banks and similar institutions; (iii) commercial paper rated at the date of purchase "Prime-1" by Moody's Investors Service, Inc. or "A-1+" or "A-1" by Standard & Poor's or, if unrated, of comparable quality as determined by the Adviser or Sub-Adviser; (iv) repurchase agreements; and (v) money market mutual funds.

[13] The NAV of a Fund's Shares generally will be calculated once daily Monday through Friday as of the close of regular trading on the New York Stock Exchange ("NYSE"), generally 4:00 p.m., Eastern Time. NAV per Share will be calculated by dividing a Fund's net assets by the number of Fund Shares outstanding.

[14] It is expected that the Funds will typically issue and redeem Creation Units on an in-kind basis; however, subject to, and in accordance with, the provisions of the Exemptive Order, the Funds may, at times, issue and redeem Creation Units on a cash (or partially cash) basis.

Creations and redemptions must be made by or through an Authorized Participant that has executed an agreement that has been agreed to by the Distributor and BBH with respect to creations and redemptions of Creation Units. All standard orders to create Creation Units must be received by the transfer agent no later than the closing time of the regular trading session on the NYSE (ordinarily 4:00 p.m., Eastern Time) (the "Closing Time") in each case on the date such order is placed in order for the creation of Creation Units to be effected based on the NAV of Shares as next determined on such date after receipt of the order in proper form. Shares may be redeemed only in Creation Units at their NAV next determined after receipt not later than the Closing Time of a redemption request in proper form by a Fund through the transfer agent and only on a business day. A Fund's custodian, through the National Securities Clearing Corporation, will make available on each business day, prior to the opening of business of the Exchange, the list of the names and quantities of the instruments comprising the Creation Basket, as well as the estimated Cash Component (if any), for that day. The published Creation Basket will apply until a new Creation Basket is announced on the following business day prior to commencement of trading in the Shares.

### Investment Restrictions

On a temporary basis, including for defensive purposes, during the initial invest-up period and during periods of high cash inflows or outflows, a Fund may depart from its principal investment strategies; for example, it may hold a higher than normal proportion of its assets in cash. During such periods, a Fund may not be able to achieve its investment objective. A Fund may adopt a defensive strategy when the Adviser and/or the Sub-Adviser believes securities in which such Fund normally invests have elevated risks due to political or economic factors and in other extraordinary circumstances.

Each Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment) deemed illiquid by the Adviser and/or the Sub-Adviser.[15] Each Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of a Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.[16]

Each Fund intends to qualify annually and to elect to be treated as a regulated investment company ("RIC") under the Internal Revenue Code.[17]

The Funds will not invest in options, futures, or swaps.

Each Fund's investments will be consistent with such Fund's investment objective and will not be used to enhance leverage. That is, while a Fund will be permitted to borrow as permitted under the 1940 Act, such Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*i.e.,* 2Xs and 3Xs) of such Fund's broad-based securities market index (as defined in Form N–1A).

### Net Asset Value

Each Fund's NAV will be determined as of the close of regular trading on the NYSE on each day the NYSE is open for trading. If the NYSE closes early on a valuation day, the NAV will be determined as of that time. NAV per Share will be calculated for a Fund by taking the value of a Fund's total assets, including interest or dividends accrued but not yet collected, less all liabilities, including accrued expenses and dividends declared but unpaid, and dividing such amount by the total number of Shares outstanding. The result, rounded to the nearest cent, will be the NAV per Share. All valuations will be subject to review by the Board of Trustees of the Trust ("Trust Board") or its delegate.

Each Fund's investments will be valued daily. As described more specifically below, investments traded on an exchange (*i.e.,* a regulated market), will generally be valued at market value prices that represent last sale or official closing prices. In addition, as described more specifically below, non-exchange traded investments will generally be valued using prices obtained from third party pricing services (each, a "Pricing Service").[18] If, however, valuations for any of the Funds' investments cannot be readily obtained as provided in the preceding manner, or the Pricing Committee of the Adviser (the "Pricing Committee")[19] questions the accuracy or reliability of valuations that are so obtained, such investments will be valued at fair value, as determined by the Pricing Committee, in accordance with valuation procedures (which may be revised from time to time) adopted by the Trust Board (the "Valuation Procedures"), and in accordance with provisions of the 1940 Act. The Pricing Committee's fair value determinations may require subjective judgments about the value of an investment. The fair valuations attempt to estimate the value at which an investment could be sold at the time of pricing, although actual sales could result in price differences, which could be material. Valuing the Funds' investments using fair value pricing can result in using prices for those investments (particularly, as applicable, investments that trade in foreign markets) that may differ from current market valuations.

Certain securities in which a Fund may invest will not be listed on any securities exchange or board of trade. Such securities will typically be bought and sold by institutional investors in individually negotiated private transactions that function in many respects like an over-the-counter secondary market, although typically no formal market makers will exist. Certain securities, particularly debt securities, will have few or no trades, or trade infrequently, and information regarding a specific security may not be widely available or may be incomplete. Accordingly, determinations of the value of debt securities may be based on infrequent and dated information. Because there is less reliable, objective data available, elements of judgment may play a greater role in valuation of debt securities than for other types of securities.

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[15] In reaching liquidity decisions, the Adviser and/or the Sub-Adviser may consider the following factors: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

[16] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also,* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding "Restricted Securities"); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the 1933 Act).

[17] 26 U.S.C. 851.

[18] The Adviser may use various Pricing Services or discontinue the use of any Pricing Services, as approved by the Trust Board from time to time.

[19] The Pricing Committee will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding each Fund's portfolio.

The information summarized below is based on the Valuation Procedures as currently in effect; however, as noted above, the Valuation Procedures are amended from time to time and, therefore, such information is subject to change.

In determining NAV, the Funds' investments will typically be valued as follows:

(1) Common stocks and other equity securities listed on any national or foreign exchange other than The NASDAQ Stock Market (''NASDAQ'') and the London Stock Exchange Alternative Investment Market (''AIM'') will typically be valued at the last sale price on the exchange on which they are principally traded on the business day as of which such value is being determined. Securities listed on NASDAQ or AIM will typically be valued at the official closing price on the business day as of which such value is being determined. If there has been no sale on such day, or no official closing price in the case of securities listed on NASDAQ or AIM, such securities will typically be valued using fair value pricing.

Equity securities traded on more than one securities exchange will typically be valued at the last sale price or official closing price, as applicable, on the business day as of which such value is being determined at the close of the exchange representing the principal market for such securities.

(2) The following cash equivalents will typically be valued using information provided by a Pricing Service: Except as provided in (3) below, short-term obligations issued by the U.S. Government; bankers' acceptances and commercial paper. Debt instruments may be valued at evaluated mean prices, as provided by Pricing Services. Pricing Services typically value non-exchange traded instruments utilizing a range of market-based inputs and assumptions, including readily available market quotations obtained from broker-dealers making markets in such instruments, cash flows, and transactions for comparable instruments. In pricing certain instruments, the Pricing Services may consider information about an instrument's issuer or market activity provided by the Adviser and/or the Sub-Adviser.

(3) Short-term obligations issued by the U.S. Government, bankers' acceptances and commercial paper having a remaining maturity of 60 days or less when purchased will typically be valued at cost adjusted for amortization or premiums and accretion of discounts, provided the Pricing Committee has determined that the use of amortized cost is an appropriate reflection of value given market and issuer-specific conditions existing at the time of the determination.

(4) Repurchase agreements will typically be valued as follows: Overnight repurchase agreements will be valued at amortized cost when it represents the best estimate of value. Term repurchase agreements (*i.e.,* those whose maturity exceeds seven days) will be valued at the average of the bid quotations obtained daily from at least two recognized dealers.

(5) Certificates of deposit and fixed time deposits will typically be valued at cost.

(6) Money market mutual funds will typically be valued at their net asset values as reported by such funds to Pricing Services.

Because foreign exchanges may be open on different days than the days during which an investor may purchase or sell Shares, the value of certain assets may change on days when investors are not able to purchase or sell Shares. Assets denominated in foreign currencies will be translated into U.S. dollars at the exchange rate of such currencies against the U.S. dollar as provided by a Pricing Service. The value of assets denominated in foreign currencies will be converted into U.S. dollars at the exchange rates in effect at the time of valuation.

## Availability of Information

The Funds' Web site (*www.ftportfolios.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Funds that may be downloaded. The Funds' Web site will include additional quantitative information updated on a daily basis, including, for each Fund, (1) daily trading volume, the prior business day's reported closing price, NAV and mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[20] and a calculation of the premium and discount of the Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Core Trading Session (9:30 a.m. to 4:00 p.m. E.T.) on the Exchange, a Fund will disclose on its Web site the Disclosed Portfolio as defined in NYSE Arca Equities Rule 8.600(c)(2) that will form the basis for such Fund's calculation of NAV at the end of the business day.[21]

On a daily basis, each Fund will disclose on its Web site the following information regarding each portfolio holding, as applicable to the type of holding: Ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding); the identity of the security, commodity, index or other asset or instrument underlying the holding, if any; maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in a Fund's portfolio. The Web site information will be publicly available at no charge.

In addition, a basket composition file, which will include the security names and share quantities required to be delivered in exchange for a Fund's Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the NYSE via the NSCC. The basket will represent one Creation Unit of a Fund.

Information regarding the intra-day value of the Shares of each Fund, which is the Portfolio Indicative Value (''PIV'') as defined in NYSE Arca Equities Rule 8.600 (c)(3), will be widely disseminated every 15 seconds throughout the Exchange's Core Trading Session by one or more major market data vendors.[22] The PIV should not be viewed as a ''real-time'' update of the NAV per Share of a Fund because the PIV may not be calculated in the same manner as the NAV, which is computed once a day, generally at the end of the business day. The price of a non-U.S. security that is primarily traded on a non-U.S. exchange shall be updated, using the last sale price, every 15 seconds throughout the trading day, provided, that upon the closing of such non-U.S. exchange, the closing price of the security, after being converted to U.S. dollars, will be used. Furthermore, in calculating the PIV of a Fund's Shares, exchange rates may be used throughout the Core Trading Session that may differ from those used to calculate the NAV per Share of a Fund and consequently may result in differences between the NAV and the PIV.

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[20] The Bid/Ask Price of Shares of each Fund will be determined using the mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of a Fund's NAV. The records relating to Bid/Ask Prices will be retained by each Fund and its service providers.

[21] Under accounting procedures followed by a Fund, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Accordingly, a Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[22] Currently, it is the Exchange's understanding that several major market data vendors widely disseminate PIVs taken from the Consolidated Tape Association (''CTA'') or other data feeds.

Quotation and last sale information for the Shares and U.S. exchange-traded equity securities will be available via the CTA high-speed line, and from the national securities exchange on which they are listed. Price information regarding non-U.S. equities held by a Fund will be available from the exchanges trading such assets and from major market data vendors. Price information for cash and cash equivalents will be available from major market data vendors. Price information regarding each asset class in which a Fund will invest will generally be available through nationally recognized data service providers through subscription agreements.

Investors can also obtain each Fund's Statement of Additional Information ("SAI"), Shareholder Reports, and Form N–CSR and Form N–SAR, filed twice a year. Each Fund's SAI and Shareholder Reports will be available free upon request from such Fund, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov.* Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available via the CTA high-speed line. The intra-day, closing and settlement prices of the portfolio securities are also readily available from the national securities exchanges trading such securities (as applicable), automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters.

## Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of a Fund.[23] Trading in Shares of a Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of a Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of a Fund may be halted.

## Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 p.m., E.T. in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation ("MPV") for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600. The Exchange represents that, for initial and/or continued listing, each Fund will be in compliance with Rule 10A–3 [24] under the Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares for each Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

## Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by the Financial Industry Regulatory Authority ("FINRA") on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.[25]

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and certain exchange-traded equity securities with other markets and other entities that are members of the Intermarket Surveillance Group ("ISG"), and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares and certain exchange-traded equity securities from such markets and other entities.[26] In addition, the Exchange may obtain information regarding trading in the Shares and certain exchange-traded equity securities from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

All statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares of the Funds on the Exchange.

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[23] *See* NYSE Arca Equities Rule 7.12.

[24] 17 CFR 240.10A–3.

[25] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[26] For a list of the current members of ISG, *see www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

The issuer has represented to the Exchange that it will advise the Exchange of any failure by a Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Equities Rule 5.5(m).

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit ("ETP") Holders in an Information Bulletin ("Bulletin") of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated PIV will not be calculated or publicly disseminated; (4) how information regarding the PIV will be disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Funds will be subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m., E.T. each trading day.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [27] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. The Adviser has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and certain exchange-traded equity securities with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares and certain exchange-traded equity securities from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and certain exchange-traded equity securities from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. Each Fund's investments will be consistent with such Fund's investment objective and will not be used to enhance leverage. The non-U.S. equity securities in the portfolio of the First Trust Horizon Managed Volatility Developed International ETF will meet the following criteria on a continual basis: (1) Non-U.S. equity securities each shall have a minimum market value of at least $100 million; (2) non-U.S. equity securities each shall have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of $25,000,000, averaged over the last six months; (3) the most heavily weighted non-U.S. equity security shall not exceed 25% of the weight of such Fund's entire portfolio, and, to the extent applicable, the five most heavily weighted non-U.S. equity securities shall not exceed 60% of the weight of such Fund's entire portfolio; and (4) each non-U.S. equity security shall be listed and traded on an exchange that has last-sale reporting.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Funds and the Shares, thereby promoting market transparency. Moreover, the PIV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, each Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for such Fund's calculation of NAV at the end of the business day. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information will be available via the CTA high-speed line. The Web site for the Funds will include a form of the prospectus for the Funds and additional data relating to NAV and other applicable quantitative information. Moreover, prior to the commencement of trading, the Exchange will inform its ETP Holders in a Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of a Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of a Fund may be halted. In addition, as noted above, investors will have ready access to information regarding each Fund's holdings, the PIV, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of additional types of actively-managed exchange-traded products that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding each Fund's holdings, the PIV, the Disclosed Portfolio, and quotation and last sale information for the Shares.

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[27] 15 U.S.C. 78f(b)(5).

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of additional types of actively-managed exchange-traded products that primarily hold equity securities, which will enhance competition among market participants, to the benefit of investors and the marketplace.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or *up to 90 days* (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

### *Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2016–87 on the subject line.

### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2016–87. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2016–87 and should be submitted on or before July 27, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2016–15913 Filed 7–5–16; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

**[Investment Company Act Release No. 32166; 812–14651]**

## Fidelity Commonwealth Trust, et al.; Notice of Application

June 29, 2016.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) index-based series of certain open-end management investment companies ("Funds") to issue shares redeemable in large aggregations only ("Creation Units"); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at net asset value ("NAV"); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of Creation Units; (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds ("Funds of Funds") to acquire shares of the Funds; and (f) certain Funds ("Feeder Funds") to create and redeem Creation Units in-kind in a master-feeder structure.

*Applicants:* Fidelity Commonwealth Trust and Fidelity Covington Trust (each, a "Trust"), each a Massachusetts business trust registered under the Act as an open-end management investment company, FMR Co., Inc., a Massachusetts corporation registered as an investment adviser under the Investment Advisers Act of 1940 (the "Advisers Act") and Fidelity SelectCo, LLC (together with FMR Co., Inc., the "Initial Advisers" and individually, each an "Initial Adviser"), a Delaware limited liability company registered as an investment adviser under the Advisers Act, and Fidelity Distributors Corporation ("Distributor"), a Massachusetts corporation and broker-dealer registered under the Securities Exchange Act of 1934 ("Exchange Act").

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[28] 17 CFR 200.30–3(a)(12).

*Filing Dates:* The application was filed on May 20, 2016, and amended on June 27, 2016.

*Hearing or Notification of Hearing:* An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 25, 2016, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: The Trusts and FMR Co., Inc., 245 Summer Street, Boston, MA 02210; Fidelity SelectCo, LLC, 1225 17th Street, Suite 1100, Denver, CO 80202; and the Distributor, 100 Salem Street, Smithfield, RI 02917.

**FOR FURTHER INFORMATION CONTACT:** Mark N. Zaruba, Senior Counsel, at (202) 551–6878, or Dalia O. Blass, Assistant Chief Counsel, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

## Summary of the Application

1. Applicants request an order that would allow Funds to operate as index exchange traded funds ("ETFs").[1] Fund shares will be purchased and redeemed at their NAV in Creation Units only. All orders to purchase Creation Units and all redemption requests will be placed by or through an "Authorized Participant", which will have signed a participant agreement with the Distributor. Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Certain Funds may operate as Feeder Funds in a master-feeder structure. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will hold investment positions selected to correspond generally to the performance of an Underlying Index. In the case of Self-Indexing Funds, an affiliated person, as defined in section 2(a)(3) of the Act ("Affiliated Person"), or an affiliated person of an Affiliated Person ("Second-Tier Affiliate"), of a Trust or a Fund, of the Adviser, of any sub-adviser to or promoter of a Fund, or of the Distributor will compile, create, sponsor or maintain the Underlying Index.[2]

3. Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified in the application, purchasers will be required to purchase Creation Units by depositing specified instruments ("Deposit Instruments"), and shareholders redeeming their shares will receive specified instruments ("Redemption Instruments"). The Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) except as specified in the application.

4. Because shares will not be individually redeemable, applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units only.

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c–1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Applicants state that (a) secondary market trading in shares does not involve a Fund as a party and will not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that effect creations and redemptions of Creation Units in kind and that are based on certain Underlying Indexes that include foreign securities, applicants request relief from the requirement imposed by section 22(e) in order to allow such Funds to pay redemption proceeds within fourteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are Affiliated Persons, or Second Tier Affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions and Deposit Instruments

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[1] Applicants request that the order apply to the existing series of each Trust that are index ETFs and any additional series of each Trust, and any other open-end management investment company or series thereof, that may be created in the future (each, included in the term "Fund"), each of which will operate as an ETF and will track a specified index comprised of domestic or foreign equity and/or fixed income securities (each, an "Underlying Index"). Any Fund will (a) be advised by an Initial Adviser or an entity controlling, controlled by, or under common control with an Initial Adviser (each, an "Adviser") and (b) comply with the terms and conditions of the application.

[2] Each Self-Indexing Fund will post on its Web site the identities and quantities of the investment positions that will form the basis for the Fund's calculation of its NAV at the end of the day. Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will help address, together with other protections, conflicts of interest with respect to such Funds.

and Redemption Instruments will be valued in the same manner as those investment positions currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[3] The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the policies of the Fund of Funds and will be based on the NAVs of the Funds.

9. Applicants also request relief to permit a Feeder Fund to acquire shares of another registered investment company managed by the Adviser having substantially the same investment objectives as the Feeder Fund (''Master Fund'') beyond the limitations in section 12(d)(1)(A) and permit the Master Fund, and any principal underwriter for the Master Fund, to sell shares of the Master Fund to the Feeder Fund beyond the limitations in section 12(d)(1)(B).

10. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

**Robert W. Errett,**

*Deputy Secretary.*

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**BILLING CODE 8011–01–P**

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[3] The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an Affiliated Person, or a Second-Tier Affiliate, of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–78196; File No. SR–FINRA–2016–023]**

## Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Increase Transparency for CMO Transactions

June 29, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 27, 2016, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to to [sic] amend the FINRA Rule 6700 Series and the Trade Reporting and Compliance Engine (''TRACE'') dissemination protocols to provide for dissemination of transactions in an additional type of Securitized Products—specifically, collateralized mortgage obligations (''CMOs''). In addition, FINRA is proposing a corresponding change to Rule 6730 to reduce the reporting period for CMOs from end-of-day to 60 minutes, and also to amend Rule 6730 to simplify the reporting requirements for transactions in CMOs executed prior to issuance. FINRA further proposes technical and conforming changes to the FINRA Rule 6700 Series and Rule 7730 in connection with the changes referenced above.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

FINRA proposes to amend the Rule 6700 Series and the TRACE dissemination protocols to: (1) Provide for the dissemination of transactions in CMOs,[3] an additional group of Securitized Products[4] not yet subject to dissemination; (2) reduce the reporting timeframe for CMOs from end-of-day to 60 minutes; and (3) simplify the reporting requirements for pre-issuance CMO transactions. FINRA also proposes technical and conforming changes to the Rule 6700 Series and Rule 7730.

Background

FINRA requires members to report transactions in any security that meets the definition of ''TRACE-Eligible Security''[5] to TRACE. Most transactions

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Collateralized Mortgage Obligation,'' or CMO, is defined in FINRA Rule 6710(dd) to mean a type of Securitized Product backed by Agency Pass-Through Mortgage-Backed Securities as defined in paragraph (v), mortgage loans, certificates backed by project loans or construction loans, other types of mortgage-backed securities or assets derivative of mortgage-backed securities, structured in multiple classes or tranches with each class or tranche entitled to receive distributions of principal and/or interest according to the requirements adopted for the specific class or tranche, and includes a real estate mortgage investment conduit (''REMIC'').

[4] The term ''Securitized Product'' is defined in Rule 6710(m) to mean a security collateralized by any type of financial asset, such as a loan, a lease, a mortgage, or a secured or unsecured receivable, and includes but is not limited to an asset-backed security as defined in Section 3(a)(79)(A) of the Exchange Act, a synthetic asset-backed security, and any residual tranche or interest of any security specified above, which tranche or interest is a debt security for purposes of paragraph (a) and the Rule 6700 Series.

[5] Rule 6710 generally defines a ''TRACE-Eligible Security'' as: (1) A debt security that is U.S. dollar-denominated and issued by a U.S. or foreign private issuer (and, if a ''restricted security'' as defined in Securities Act Rule 144(a)(3), sold pursuant to Securities Act Rule 144A); or (2) a debt security that is U.S. dollar-denominated and issued or

Continued

must be reported to TRACE within 15 minutes of the time of execution and are subsequently disseminated.

Securitized Products were the last major group of fixed income securities to become subject to TRACE reporting. Initially, FINRA received reports of transactions in these products for regulatory audit trail purposes only and did not disseminate transaction data. FINRA used the transaction reports it received to study the liquidity and trading characteristics of various types of Securitized Products. Based on its study, FINRA then started a phased approach to disseminating transaction information for certain Securitized Products.

For the first phase, on November 12, 2012, FINRA began disseminating transactions in Agency Pass-Through Mortgage-Backed Securities traded To Be Announced (''TBA'') (''MBS TBA'' transactions), which are the most liquid types of Securitized Products.[6] Next, on July 22, 2013, FINRA began disseminating transactions in Agency Pass-Through Mortgage-Backed Securities and SBA-Backed ABS (as defined in FINRA Rule 6710(bb)) traded in Specified Pool Transactions.[7] On June 30, 2014, FINRA began to disseminate information on transactions in TRACE-Eligible Securities effected as Rule 144A transactions, provided that such transactions were in securities that would be subject to dissemination if effected in non-Rule 144A transactions.[8] And most recently, on June 1, 2015, FINRA began to disseminate transactions in Asset-Backed Securities.[9] Today, the remaining types of Securitized Products not yet subject to dissemination are CMOs, commercial mortgage-backed securities (''CMBSs''), and collateralized debt obligations (''CDOs'').[10] CMOs are the largest and most actively traded of these remaining Securitized Products types. In addition, CMOs typically have relatively smaller transaction sizes than those for CMBSs and CDOs.

Current Proposal

FINRA is proposing to expand the dissemination of Securitized Products to include CMOs. Under the proposal, a CMO transaction will be subject either to dissemination immediately upon receipt of the TRACE transaction report, or to aggregate, periodic dissemination, depending on the size of the transaction and the number of transactions in the CMO security during a given period.

Specifically, transactions in CMOs, including transactions effected pursuant to Securities Act Rule 144A, will be subject to aggregate, periodic dissemination on a weekly and monthly basis where the transaction value is $1 million or more (calculated based upon original principal balance) and where there have been five or more transactions of $1 million or more in the reporting period reported by at least two different market participant identifiers (''MPIDs'').[11] For the smaller-size transactions—*i.e.*, transactions valued under $1 million (calculated based upon original principal balance)—FINRA will disseminate trade-by-trade information immediately upon receipt by TRACE.[12]

The proposal will provide for this approach to CMO dissemination by amending FINRA Rule 6750 (Dissemination of Transaction Information). Rule 6750 currently contains two operative paragraphs—paragraph (a), which provides generally for the dissemination of TRACE-Eligible Securities immediately upon receipt of a transaction report, and paragraph (b), which contains an exception to the general dissemination provision in paragraph (a) and which notes the security or transaction types that are not subject to dissemination. Currently, the remaining Securitized Products—CMOs, CMBSs, and CDOs, are found within paragraph (b) and are therefore not subject to dissemination.

Under the proposal, current paragraph (b) will be replaced with a paragraph that provides specifically for the dissemination of larger-size ($1 million or more) CMO transactions on a periodic, rather than immediate, basis, provided the transaction occurs in a CMO security that meets the minimum activity threshold described above (*i.e.*, at least five transactions in the period reported by at least two different MPIDs). The exception paragraph, which sets forth the transaction types not subject to dissemination, will be new paragraph (c). It will be revised to note that the only Securitized Products not subject to dissemination are CMBSs, CDOs, and CMOs where the CMO transaction value is $1 million or more (calculated based upon original principal balance) and the transaction does not qualify for periodic dissemination. However, as noted above, all transactions in CMOs will become part of the historic data sets even if they were not subject to dissemination upon receipt or periodic dissemination.[13]

To facilitate the proposed dissemination of CMOs, the proposal will also amend Rule 6730(a)(3) to reduce the time period for reporting to TRACE transactions in CMOs to TRACE executed on or after issuance.[14] Currently, these CMO transactions must be reported to TRACE no later than the close of the TRACE system on the date

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guaranteed by an ''Agency'' as defined in Rule 6710(k) or a ''Government-Sponsored Enterprise'' as defined in Rule 6710(n).

[6] *See* Securities Exchange Act Release No. 66829 (April 18, 2012), 77 FR 24748 (April 25, 2012) (Order Approving File No. SR–FINRA–2012–020); *Regulatory Notice* 12–26 (May 2012) and *Regulatory Notice* 12–48 (November 2012).

[7] *See* Securities Exchange Act Release No. 68084 (October 23, 2012), 77 FR 65436 (October 26, 2012) (Order Approving File No. SR–FINRA–2012–042) and *Regulatory Notice* 12–56 (December 2012).

[8] *See* Securities Exchange Act Release No. 70345 (September 6, 2013), 78 FR 56251 (September 12, 2013) (Order Approving File No. SR–FINRA–2013–029) and *Regulatory Notice* 13–35 (October 2013).

[9] *See* Securities Exchange Act Release No. 71607 (February 24, 2014), 79 FR 11481 (February 28, 2014) (Order Approving File No. SR–FINRA–2013–046) and *Regulatory Notice* 14–34 (August 2014).

[10] A ''Collateralized Debt Obligation,'' or CDO, would be defined in proposed FINRA Rule 6710(ff) to mean a type of Securitized Product backed by fixed-income assets (such as bonds, receivables on loans, or other debt) or derivatives of these fixed-income assets, structured in multiple classes or tranches with each class or tranche entitled to receive distributions of principal and/or interest in accordance with the requirements adopted for the specific class or tranche. A CDO includes, but is not limited to, a collateralized loan obligation, or CLO, and a collateralized bond obligation, or CBO.

[11] For example, if five transactions occurred in a particular CMO security during each of the four weeks in a calendar month and were reported by at least two unique MPIDs, then four weekly reports would be disseminated; in addition, information on those transactions would be included in the aggregate monthly report for that calendar month. If five transactions occurred over the course of a calendar month, but did not occur during a single week, then a weekly report would not be available for that security (but the transaction information would be included in the monthly report provided the transactions were reported by at least two unique MPIDs). For purposes of determining if a CMO security has been reported by at least two different MPIDs, FINRA notes that it would consider an interdealer trade to be reported by one MPID—the sell side dealer—even though the trade is reported by both sides of the transaction.

[12] Also in connection with the proposed dissemination of information on CMO transactions, FINRA proposes to amend Rule 7730 (fees for TRACE) to reflect the addition of CMOs to the applicable data sets. Disseminated periodic reports will become available as part of the Securitized Products Data Set and all CMO transactions—even if not previously disseminated upon receipt or as part of a periodic report—will become part of the Historic Securitized Products Data Set in FINRA Rule 7730. Similarly, disseminated periodic reports for transactions in CMOs issued pursuant to Rule 144A will become part of the Rule 144A Data Set, and all Rule 144A transactions in CMOs will become part of the Historic Rule 144A Data Set. The inclusion of this additional data in such data sets will not affect the fees currently in effect.

[13] *See supra* note 12.

[14] As discussed in further detail below, reporting requirements for transactions in a CMO prior to that CMO's issuance are addressed separately in FINRA Rule 6730(a)(3)(C). FINRA notes that it will also make a technical, clarifying edit to Rule 6730(a)(3) that is otherwise unrelated to this proposal; specifically, FINRA will delete language in Rule 6730(a)(3)(B) that describes the transitional reporting phase for Asset-Backed Securities, since the transitional phase is now complete.

of execution.[15] Under the proposal, paragraph (H) would be added to require that transactions in these CMOs must be reported to TRACE within 60 minutes of execution.[16]

Finally, FINRA proposes to modify the reporting timeframe for pre-issuance CMO transactions. FINRA is proposing to amend Rule 6730(a)(3)(C) to provide that transactions in CMOs that are executed before the date of issuance of the security must be reported no later than the first settlement date of the security. Under the current rule, firms generally must report CMO transactions that are executed prior to issuance on the earlier of the business day that the security is assigned a CUSIP, or the date of issuance of the security. FINRA is aware that some firms, particularly small and mid-size firms, have had difficulty in determining with accuracy in a timely manner when the reporting obligation has been triggered, due to inconsistencies in communicating the relevant information between underwriters and trading parties. As a result, these firms do not always report trades in these instruments on the earlier of the two dates specified in the current rule. FINRA believes that, because new issuances in CMOs generally settle on the last business day of the month, the amended proposal would provide for a uniform reporting deadline that can be easily ascertained by all firms.

If the Commission approves the proposed rule change, FINRA will announce the operative date of the proposed rule change in a *Regulatory Notice* to be published no later than 90 days following Commission approval. The operative date will be no later than 365 days following publication of the *Regulatory Notice* announcing Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[17] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. As discussed throughout the filing, FINRA believes that the proposed rule change will promote greater transparency in the marketplace for CMOs. Based on dialogue with a variety of market participants, FINRA believes the information it proposes to disseminate would be valuable to assist in price discovery, determination of execution quality, and, in particular, valuation of securities positions. Furthermore, FINRA believes the proposal strikes an appropriate balance between promoting transparency and preserving anonymity, which may facilitate larger size trades and liquidity provision. Based on FINRA's ongoing study of the trading characteristics of Securitized Products, FINRA believes this proposal is an important next phase in dissemination that will position FINRA to evaluate whether and how to complete its expansion of dissemination to cover all Securitized Product types.

FINRA further believes that the proposed change to 60-minute trade reporting will facilitate CMO dissemination by ensuring that FINRA is able to receive and disseminate CMO transaction information in a timely manner. Accordingly, FINRA believes this element of the filing will help promote transparency and enhance investor protection and the public interest.

Finally, FINRA believes the proposed change to the reporting timeframe for pre-issuance CMOs will further just and equitable principles of trade by providing greater clarity and promoting compliance with applicable reporting rules.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. FINRA has undertaken an economic impact assessment, as set forth below, to analyze the regulatory need for the proposed rule change, its potential economic impacts, including anticipated costs and benefits, and the alternatives FINRA considered in assessing how to best meet its regulatory objectives.

Need for the Rule

As discussed above, FINRA believes this proposal is necessary and appropriate to further promote transparency in the markets for additional Securitized Products. FINRA believes the proposed dissemination of transaction information for CMOs would be valuable to assist in price discovery, determination of execution quality, and, in particular, valuation of securities positions. FINRA believes the proposed transition to 60-minute trade reporting for transactions in CMOs executed on or after issuance is necessary to facilitate meaningful dissemination of information for these securities. Finally, FINRA believes the proposed change to the reporting timeframe for transactions in pre-issuance CMOs is necessary to simplify the reporting process, given that some firms, small and medium size firms in particular, may have difficulty in determining with accuracy and in a timely manner when their reporting obligations have been triggered.

Economic Impacts

FINRA believes that enhanced transparency in CMOs will benefit market participants, as discussed above, by contributing to more efficient pricing and better execution quality for market participants and clients. However, the proposed changes may impose direct and indirect costs on market participants; for example, the proposal might impose direct costs associated with more timely reporting of CMO transactions and indirect costs associated with the potential leakage of proprietary information. In the analysis below, we individually assess the impact on market participants of each proposed change—(1) dissemination of CMO transactions, (2) reducing the timeframe for reporting CMO transactions, and (3) simplifying the reporting requirements for pre-issuance CMO transactions.

(1) Dissemination of CMO Transactions

The proposed dissemination of CMO transactions will enhance transparency, which should benefit market participants and clients via improved market quality. However, while enhanced transparency should provide benefits broadly to the marketplace, it may impose indirect costs on certain market participants, like those whose transaction information is subject to dissemination. FINRA is cognizant of the concern that the risk of information leakage could potentially harm market quality if it discourages liquidity provision. Accordingly, FINRA staff considered the potential for indirect costs associated with providing information publicly that might permit competitors to reverse engineer the disseminated data to produce private information about trade participants, their trade positions and possibly their trading strategies.

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[15] *See* FINRA Rule 6730(a)(3)(A). As part of this proposal, FINRA is proposing a technical, clarifying change to Rule 6730(a)(3)(A). This paragraph currently is titled "General Reporting Requirements" for Securitized Products, but because only CDOs and CMBSs will remain subject to the paragraph after this proposal becomes effective, FINRA will rename this paragraph to make clear that applies specifically to CDOs and CMBSs.

[16] As with other TRACE-Eligible Securities that are subject to 60-minute reporting, under proposed Rules 6730(a)(3)(H)(iii)–(iv), transactions in CMOs, CMBSs, and CDOs that are executed less than 60 minutes before the TRACE system closes, or after, would need to be reported no later than 60 minutes after TRACE opens the following business day.

[17] 15 U.S.C. 78*o*–3(b)(6).

To investigate whether dissemination, as proposed, could potentially allow market participants to reverse-engineer the identities of broker-dealers or positions, FINRA staff examined the distribution of the number of MPIDs reporting transactions in each CMO CUSIP, over the time period spanning May 13, 2011 to August 14, 2015. Table 1 suggests that trading activity in CMOs, on a per-CUSIP basis, is quite concentrated, with 32,200 CUSIPs—33.3% of all CMO CUSIPs—in the sample traded by only one MPID over the sample period. These CUSIPs traded by only one MPID are referred to as "concentrated" CUSIPs. There were 64,449 remaining CUSIPs in the sample traded by two or more MPIDs, referred to as "non-concentrated" CUSIPs.[18] CUSIPs are classified as concentrated and non-concentrated based on a threshold of one MPID, as it represents cases where the information about firm activity is most concentrated.

TABLE 1—THE NUMBER OF DIFFERENT MPIDS TRADING IN CMO CUSIPS

| Number of MPIDs | CUSIPs | % |
|---|---|---|
| 1 | 32,220 | 33.3 |
| 2 | 17,792 | 18.4 |
| 3 | 10,573 | 10.9 |
| 4 | 6,677 | 6.9 |
| 5 | 4,595 | 4.8 |
| 6 | 3,511 | 3.6 |
| 7 | 2,737 | 2.8 |
| 8 | 2,229 | 2.3 |
| 9 | 1,903 | 2.0 |
| 10 | 1,590 | 1.6 |
| 11 | 1,317 | 1.4 |
| 12 | 1,128 | 1.2 |
| 13 | 955 | 1.0 |
| 14 | 869 | 0.9 |
| 15 | 753 | 0.8 |
| 15+ | 7,820 | 8.1 |
| Total | 96,669 | 100 |

Table 2 reports trading activity (the number of transactions and trading volume) for the sample by concentrated versus non-concentrated CUSIPs. Trading activity in concentrated CUSIPs represents only 1.73% of transactions, but 15.75% of the trading volume. This suggests that concentrated CUSIPs have relatively larger trade sizes.

TABLE 2—AGGREGATE TRADING ACTIVITY BY CONCENTRATION

| | Number of transactions | Volume ($bil.) |
|---|---|---|
| HHI = 1 | 50,714 | $1,692 |
| HHI < 1 | 2,879,089 | 9,049 |
| Total | 2,929,803 | 10,741 |

Table 3 reports that the typical concentrated CUSIP trades only about one to two times over the entire sample period. For non-concentrated CUSIPs reported by two or more MPIDs, the typical CMO trades 44.67 times over the sample period.[19] In general, concentrated CUSIPs have on average about half of the trading volume of non-concentrated CUSIPs.

TABLE 3—AVERAGE TRADING ACTIVITY PER CUSIP

| | | Mean | Median |
|---|---|---|---|
| HHI = 1 | Number of transactions/CUSIP | 1.57 | 1.00 |
| | Transaction size ($mil.) | $33.37 | $10.60 |
| | Volume ($mil.) | $52.52 | $19.00 |
| HHI < 1 | Number of transactions/CUSIP | 44.67 | 10.00 |
| | Transaction size ($mil.) | $3.14 | $0.03 |
| | Volume ($mil.) | $140.40 | $41.85 |
| Overall | Number of transactions/CUSIP | 30.31 | 5.00 |
| | Transaction size ($mil.) | $3.67 | $0.03 |
| | Volume ($mil.) | $111.11 | $30.67 |

FINRA staff also investigated the trading activity above and below the proposed threshold for immediate dissemination upon receipt, $1 million in original principal balance traded. Table 4 reports the frequency of transactions that would have fallen above and below the proposed threshold had they been in place during the sample period, broken down by concentrated and non-concentrated CUSIPs. In the sample, 79.21% (0.36% + 78.85%) of transactions and 1.64% (0.02% + 1.62%) of trading volume in CMOs would have been below the proposed threshold, and thus would have been disseminated immediately upon receipt to FINRA under the proposal.

TABLE 4—DISTRIBUTION OF TRANSACTIONS ABOVE AND BELOW PROPOSED THRESHOLD

| | Number of transactions | Percent | Volume ($bil.) | Percent |
|---|---|---|---|---|
| HHI = 1 Below Threshold | 10,526 | 0.36 | $1.97 | 0.02 |
| HHI = 1 At/Above Threshold | 40,188 | 1.37 | 1,690.13 | 15.74 |
| HHI < 1 Below Threshold | 2,310,110 | 78.85 | 173.98 | 1.62 |
| HHI < 1 At/Above Threshold | 568,979 | 19.42 | 8,874.67 | 82.63 |

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[18] Concentrated CUSIPs have a Herfindahl-Hirschman Index (HHI) of one, while non-concentrated have an HHI that is less than one. Algebraically, HHI is calculated as follows: $HHI = \Sigma^{N}_{i=1} s_i^2$ where $s_i$ is the market share of firm i, and there are *N* total firms in a market. HHI is a succinct measure of market concentration, and it is widely used in analyses of monopoly power, antitrust litigation, and other prominent issues in industrial organization. The HHI of a market can range from 0 to 1 (some publications use 0 to 10,000, but the interpretation is the same after adjusting for scale), where HHI = 1 represents a perfectly concentrated market (one firms controls the entire market) and HHI = 0 represents a perfectly competitive market (infinitely many firms have infinitesimally small market share).

[19] On average, CMOs trade in 10.74 days out of 1,071 days in the sample period.

TABLE 4—DISTRIBUTION OF TRANSACTIONS ABOVE AND BELOW PROPOSED THRESHOLD—Continued

| | Number of transactions | Percent | Volume ($bil.) | Percent |
|---|---|---|---|---|
| Total | 2,929,803 | 100.00 | 10,740.75 | 100.00 |

The total number of transactions and the trading volume that would be disseminated under the $1 million threshold and the minimum five-trade per CUSIP requirement are presented in Table 5. The table shows that approximately 8.65% (6.24% + 2.41%) of transactions and 28.63% (16.64% + 7.99%) of trading volume in CMOs would be disseminated in weekly and monthly reports.

TABLE 5—AGGREGATE PERCENTAGE OF TRANSACTIONS BY TYPE AND DISSEMINATION WITH MINIMUM TWO MPID REQUIREMENT FOR PERIODIC REPORTS

| | Transactions | % | Volume ($bil.) | % |
|---|---|---|---|---|
| Immediate | 2,320,636 | 79.21 | 176 | 1.64 |
| Weekly | 182,893 | 6.24 | 1,787 | 16.64 |
| Monthly | 70,528 | 2.41 | 858 | 7.99 |
| Not dis. | 355,746 | 12.14 | 7,919 | 73.73 |
| Total | 2,929,803 | 100.00 | 10,741 | 100.00 |

Table 6 reports the average trade characteristics by concentration at the MPID level. As illustrated by the table, 79.29% of an MPID's CMO transactions would be disseminated immediately upon receipt, with 0.18% in concentrated CUSIPs and 79.11% in non-concentrated CUSIPs. Similarly, 11.74% (9.19% + 2.55%) of CMO transactions for the typical MPID would be disseminated via weekly and monthly periodic reports, with all transactions in non-concentrated CUSIPs. Finally, on average, 8.97% of an MPID's CMO transactions would not be subject to any dissemination under the proposal, with 0.36% of in concentrated CUSIPs and 8.61% in non-concentrated CUSIPs.

TABLE 6—AVERAGE TRADING ACTIVITY PER MPID BY DISSEMINATION FREQUENCY AND CONCENTRATION

| | (Number of MPIDs = 1,002) | | | |
|---|---|---|---|---|
| | % of transactions | | % of volume | |
| | HH = 1 | HH < 1 | HH = 1 | HH < 1 |
| Immediate | 0.18 | 79.11 | 0.13 | 58.17 |
| Weekly | 0.00 | 9.19 | 0.02 | 20.46 |
| Monthly | 0.00 | 2.55 | 0.00 | 4.31 |
| Not dis. | 0.36 | 8.61 | 0.85 | 16.05 |

This analysis suggests that information leakage may not be a significant issue based on the concentration of trading activity in certain CUSIPs. Tables 5 and 6 confirm that it would be difficult to ascertain significant information about a single MPID's trading strategy from both the real time and periodic dissemination of CMO trades, as less than 1% of trading in concentrated CUSIPs is expected to be disseminated. Moreover, there are no concentrated CUSIPs where the proposed rule would have led to dissemination of all trades by any individual MPID.[20]

(2) Reducing the Timeframe for Reporting CMO Transactions

The second proposed change, reducing the reporting timeframe for CMOs from end-of-day to 60 minutes is intended to facilitate timely dissemination of information for these securities. However, FINRA is aware that a narrower reporting window may impose direct costs on firms to the extent that the firms have to modify or upgrade their reporting systems to comply with the reduced time period for transactions in CMOs executed on or after issuance.

In a sample of 2,476,666 transactions reported on the day of the execution, the average and median reporting time after execution are approximately 19 minutes and 33 seconds, respectively.[21] Approximately 92% of CMO transactions are currently reported to TRACE within 60 minutes. Reports received 60 minutes or more after the transaction execution are significantly larger than those that are reported within 60 minutes.[22]

Of the 974 market participants that reported CMO trades during the sample period, 417 reported all transactions within 60 minutes. Another 400 market participants reported at least 90%, but less than 100% of their CMO transactions within 60 minutes of execution. Finally, 157 market participants reported less than 90% of their transactions within 60 minutes; of these, only six reported all of their transactions more than 60 minutes after execution, but each of the six reported fewer than five trades during the sample period.

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[20] 463 MPIDs would have all of their CMO trades disseminated immediately upon receipt; however, none of those trades are in concentrated CUSIPs.

[21] The sample for the analysis of the reporting timeframes excludes 453,137 "as of" trades that were in the original sample, since such trades are reported at least a day after the transaction day and are disseminated with a "late" flag and are subject to a fine.

[22] Trades that are reported after 60 minutes have an average transaction size of approximately $9.76 million, whereas the same figure is approximately $2.76 million for trades that are reported within 60 minutes. The difference of $7.00 million is statistically significant at the 1% level.

This analysis suggests that many market participants will require no change in behavior to meet the proposed rule, and, as such, should face no material costs. A second group of market participants currently meet the proposed reporting standards at least 90% of the time, suggesting that their costs for compliance should also be low. The data indicate that there are a small but material number of market participants that currently do not report in a manner consistent with the proposed rule, but these firms engage in small numbers of transactions in CMO securities. The cost that these firms would be expected to incur as a result of the shorter reporting timeframe would depend on the extent of the modification or upgrade to the reporting systems to stay in compliance with the proposed rule.

(3) Simplifying the Reporting Requirements for Pre-Issuance CMO Transactions

The final proposed change would impact the reporting timeframe for pre-issuance CMO transactions and is expected to benefit firms, since it is intended to eliminate potential confusion about when the reporting obligation has been triggered. The proposed requirement that transactions in CMOs that are executed before the issuance of the security must be reported no later than the first settlement date provides firms with more time to report the transactions than they have today.

Alternatives Considered

As discussed in detail below, FINRA staff also considered the dissemination of CMBSs and CDOs in addition to CMOs. Likely due to differences in the customers that trade Securitized Products, CMOs typically have relatively smaller transactions sizes than those for CMBSs and CDOs and thus would be more likely disseminated under the thresholds applied in this rule. For example, Table 5 above demonstrates that 79.21% (0.36% + 78.85%) of CMO transactions would have been below the proposed threshold, and thus would have been disseminated immediately upon receipt under the proposal, whereas, FINRA staff found that, under the same thresholds, only 29.51% and 37.92% of CDO and CMBS transactions would have been disseminated, respectively, upon receipt. This observation suggests that differences in average trade characteristics may lead to different outcomes for dissemination across security types. Therefore, FINRA believes that proceeding with CMO dissemination is a sensible next step, and it will continue to analyze the potential for enhanced transparency for the remaining Securitized Product types.

FINRA staff also assessed whether the five-transaction requirement for periodic dissemination of trades in weekly and monthly reports is reasonable and appropriate based on trading frequency. The staff found that increasing the requirement from five to ten transactions creates a significant shift of transactions from aggregate, periodic dissemination to no dissemination. If the threshold were increased to a minimum of 20 transactions, then approximately 96% of trading volume would not be disseminated.

A higher minimum transaction number threshold may also result in aggregate, periodic dissemination for transactions reported by far fewer market participants. For example, based on the sample data referenced above and assuming a five-transaction threshold for periodic dissemination, 14 MPIDs would have had all of their transactions disseminated weekly and an additional three MPIDs would have had all of their transactions disseminated monthly. However, if the minimum trade threshold were increased to ten, there would only be a single MPID whose transactions would be consistently disseminated in weekly reports, and another single MPID whose transactions would be consistently disseminated via monthly reports.

The analysis implies that increasing the minimum transaction number threshold for periodic dissemination would dramatically reduce the amount of information that is disseminated. In addition, it may actually increase the risk of reverse-engineering the identity or trading strategies of the single or few MPIDs whose trades would be subject to dissemination under a higher minimum transaction number threshold.

Another alternative that FINRA considered was a 15-minute reporting requirement for CMO transactions, rather than the 60-minute requirement that FINRA proposes in this filing. As noted above, based on sample data that FINRA has analyzed, the median reporting time for CMO transactions is just under 20 minutes. Accordingly, FINRA believes that a 15-minute reporting requirement may impose significantly greater costs than a 60-minute requirement. Notably, FINRA believes that the 60 minute requirement is still expected to provide sufficiently timely transparency to the market. FINRA also notes that the proposed 60-minute requirement for CMOs mirrors the 60-minute requirement currently in place for another type of Securitized Product—agency pass-through mortgage-backed securities traded to be announced not good for delivery.

Finally, with respect to the reporting process for pre-issuance CMOs, FINRA considered requiring that transactions be reported no later than two days prior to the first settlement date. However, FINRA understands that in many cases, particularly for private label securities, the characteristics of a new issue may not be finalized until the first settlement date of the securities. As a result, FINRA is instead proposing that pre-issuance CMO transactions be reported by the first settlement date.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The proposed rule change was published for comment in *Regulatory Notice* 15–04 (February 2015). Five comments were received in response to the *Regulatory Notice*.[23] A copy of the *Regulatory Notice* is attached as Exhibit 2a. Copies of the comment letters received in response to the *Regulatory Notice* are attached as Exhibit 2c. The comments are summarized below.

As an initial step, prior to issuing *Regulatory Notice* 15–04, FINRA staff solicited industry input from several of its industry advisory committees. At this stage, as in the *Regulatory Notice*, FINRA was contemplating expanding dissemination to all remaining Securitized Products, including CMOs, CMBSs, and CDOs. FINRA was also considering reducing the reporting timeframe for these remaining Securitized Products to 15 minutes. The committees were generally supportive. To the extent the committees raised concerns, they were focused primarily on what an appropriate threshold would be to determine whether transactions are subject to immediate or periodic dissemination. At the time FINRA raised this proposal with the committees, it was proposing immediate dissemination for transactions below a threshold of $1 million in transaction size, and aggregate periodic reporting for transactions greater than $1 million, provided there were at least five trade reports in the same security during the applicable reporting period. FINRA committed to vetting these proposed thresholds more completely through the *Regulatory Notice* comment process.

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[23] *See* Letters from Letters from the Financial Information Forum, dated April 7, 2015 ("FIF Letter"); Bond Dealers of America, dated April 9, 2015 ("BDA Letter"); Association of Institutional INVESTORS, dated April 10, 2015 ("INVESTORS Letter"); Bloomberg's Valuation Service, dated April 10, 2015 ("BVAL Letter"); and the Securities Industry and Financial Markets Association, dated April 13, 2015 ("SIFMA Letter").

FINRA then published *Regulatory Notice* 15–04 in February 2015 and received five comments in response. Like the industry advisory committees, commenters focused primarily on the merits of disseminating transaction information for the remaining Securitized Products, as well as the thresholds proposed for immediate versus aggregate, periodic reporting. Some of the commenters also discussed the elements of the proposal that would have reduced the reporting timeframe for the remaining Securities Products to 15 minutes.

Two of the commenters took different views on the merits of expanding dissemination to include the remaining Securitized Products. The Association of Institutional INVESTORS (“INVESTORS”) strongly favored dissemination because “transparency will be extremely beneficial to all market participants and greatly assist in price discovery and in decreasing price dispersion.” [24] In contrast, the Securities Industry and Financial Markets Association (“SIFMA”) acknowledged that dissemination may contribute to better price formation for additional Securitized Products but expressed its belief that dissemination may negatively impact market liquidity. In SIFMA’s view, liquidity should be prioritized over enhancing price discovery.[25]

With respect to the specific items of transaction information FINRA proposed in the *Regulatory Notice* to disseminate, the Financial Information Forum (“FIF”) argued that the information disseminated for the remaining Securitized Products should align with the information disseminated for Asset-Backed Securities. FIF specifically recommended suppressing the contra-party indicator and identifying transactions that meet the definition of a List or Fixed Offering Price Transaction.[26] SIFMA similarly argued that only secondary trades in CMOs should be disseminated, to align dissemination for additional Securitized Products with dissemination for corporate and agency debt and Asset-Backed Securities. SIFMA also expressed concerns about the ability to reverse engineer transactions more easily if last sale price and last sale date information were included in the periodic reports.[27]

Four of the commenters disagreed with the $1 million real-time dissemination threshold that FINRA proposed in the *Regulatory Notice,* although they took opposing views as to whether the threshold would result in too many or too few transactions being subject to real-time dissemination. According to INVESTORS, $1 million is too low given that the market for Securitized Products is primarily institutional, so INVESTORS recommended a $5 million threshold instead.[28] Another commenter, Bloomberg’s Valuation Service (“BVAL”) also stated that the $1 million threshold is too low to provide relevant pricing information to the market, since less than 1% of the market trades below $1 million, and the trades that do occur below the threshold involve a different buyer base and pricing model.[29]

On the other hand, two of the commenters believed that the proposed $1 million threshold was too high. SIFMA stated that the threshold should be lowered from $1 million to $100,000 “to ensure only truly retail-sized transactions” are subject to real-time dissemination. According SIFMA, setting the threshold at $1 million would include inter-dealer trades as well as retail, and disseminating information on both types of transactions could be “misleading” to retail investors. Additionally, SIFMA expressed its belief that disseminating larger-size trades could harm liquidity in an already illiquid marketplace.[30] The Bond Dealers of America (“BDA”) echoed the concern that disseminating trades up to $1 million in value could impact market pricing and liquidity and impact trading strategies.[31]

Three of the commenters provided views on the proposed five transaction threshold for the dissemination of aggregate periodic reports for larger-size transactions. INVESTORS and BVAL did not believe that there should be any minimum number of transactions required per reporting period to qualify for dissemination, and that such a minimum would restrict the proposal’s usefulness.[32] In contrast, SIFMA argued that the five transaction minimum was too low, and believed that it should be raised from five to 20, because “[l]iquidity in the securitized products markets will be least impacted by price dissemination if only truly actively traded CUSIPs are captured in the weekly and monthly reports.” [33]

One commenter also addressed the proposed reduction of the reporting timeframe to 15 minutes for transactions in the remaining Securitized Products. BDA expressed concern that a reduced reporting timeframe could have a disproportionate impact on smaller dealers and may result in these products being traded less by dealers and more by banking institutions that do not have to comply with TRACE reporting requirements. BDA stated that additional Securitized Products typically trade in “odd lot” sizes, where liquidity has traditionally been provided by small to medium size dealers, who would face “significant challenges” complying with a 15-minute reporting requirement.[34]

Finally, three of the commenters addressed the element of the proposal that would simplify the reporting process for pre-issuance CMOs, which in the *Regulatory Notice* would have required reporting no later than two days prior to the first settlement date, with varying levels of support. SIFMA strongly supported the change as proposed.[35] BDA expressed support for the proposed change, but recommended that the reporting deadline be moved back further, to settlement minus one day.[36] FIF recommended greater relaxation of the reporting timeframe, proposing a settlement date deadline, rather than settlement minus two.

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[24] INVESTORS Letter at 1.

[25] *See* SIFMA Letter at 1–2.

[26] *See* FIF Letter at 2. The term “List or Fixed Price Transaction” is defined in Rule 6710(q) to mean a primary market sale transaction sold on the first day of trading of a security, including an Asset-Backed Security as defined in paragraph (cc), but excluding any other Securitized Product as defined in paragraph (m): (i) By a sole underwriter, syndicate manager, syndicate member or selling group member at the published or stated list or fixed offering price, or (ii) in the case of a primary market sale transaction effected pursuant to Securities Act Rule 144A, by an initial purchaser, syndicate manager, syndicate member or selling group member at the published or stated fixed offering price.

[27] *See* SIFMA Letter at 3.

[28] *See* INVESTORS Letter at 2–3.

[29] *See* BVAL Letter at 1.

[30] *See* SIFMA Letter at 2.

[31] *See* BDA Letter at 3.

[32] *See* INVESTORS Letter at 2–3 and BVAL Letter at 1.

[33] *See* SIFMA Letter at 2–3. This commenter further asked that the proposed aggregate periodic reports not include last price and trade date, to minimize the potential for reverse engineering.

[34] *See* BDA Letter at 2–3.

[35] *See* SIFMA Letter at 3.

[36] *See* BDA Letter at 4.

According to FIF, information for pre-issuance CMOs "is not consistently available two days prior to the first settlement date."[37]

FINRA carefully considered the committee views and written comments. After analyzing this feedback, FINRA believes it is appropriate to proceed with the proposal as described and explained above in the filing, which has been modified from what FINRA proposed in *Regulatory Notice* 15–04. Based on FINRA's continued study of the impact of dissemination on TRACE-Eligible Securities, and Securitized Products in particular, in addition to dialogue with a variety of market participants and the feedback received on *Regulatory Notice* 15–04, FINRA believes the proposed dissemination of transaction information for CMOs would be valuable to assist in price discovery, determination of execution quality, and, in particular, valuation of securities positions. FINRA recognizes, however, that CMOs generally are more complex and less fungible than the securities that are currently subject to dissemination. As a result, FINRA believes it is important to calibrate its proposal to provide for tiered dissemination of these products in a way that promotes transparency while minimizing potential negative impacts on liquidity. Importantly, while FINRA has decided not to expand dissemination to CMBSs and CDOs at this time, FINRA believes this proposal is a careful step towards enhanced transparency for these remaining Securitized Product types, and that it will allow FINRA and market participants to consider how best to approach the final phase of dissemination expansion.

In an effort to further calibrate the proposal to provide additional safeguards against the risk of reverse-engineering, FINRA modified the minimum security activity threshold first proposed in *Regulatory Notice* 15–04 for periodic reporting. The *Regulatory Notice* proposed to disseminate larger-size transactions ($1 million or more) on an aggregate periodic basis provided there were five or more transactions in the security during the reporting period. In response to the feedback FINRA received, FINRA is now proposing to disseminate aggregate periodic reports for larger-size transactions provided there are five or more transactions in the security during the reporting period, and further that the transactions must be reported by at least two different MPIDs. FINRA believes that this modified threshold for aggregate periodic reporting will further the interests of transparency while being sensitive to the confidentiality of positions or trading strategies, particularly in securities that trade in a concentrated market made by just one dealer.

Concerning the specific items of transaction information that FINRA would disseminate for CMOs, FINRA has modified the proposal in part to reflect the input it received from commenters. Specifically, FINRA will remove counterparty information from transactions that are disseminated and will also remove the data fields that it proposed in *Regulatory Notice* 15–04 for the periodic reports that would have conveyed last sale price, last sale date, customer buy, customer sell, and interdealer prices. FINRA believes these modifications are appropriate to address commenters' concerns about reverse engineering. FINRA has not modified the proposal, however, in response to commenters' suggestion to suppress new issue transactions in CMOs. The definition of List or Fixed Price Transaction does not apply to CMOs. FINRA believes that redefining the term List or Fixed Price Transaction to include CMOs would result in a significantly less effective proposal, according to input FINRA has received from various market participants.

Concerning the reporting timeframe for transactions in CMOs executed on or after issuance, FINRA modified its proposal to allow for 60-minute reporting rather than 15-minute reporting. FINRA believes this change is appropriate to minimize firms' reporting burdens while improving the timeliness in the receipt and dissemination of CMO transaction information. FINRA notes that the proposed 60-minute timeframe is the same as the reporting requirement for other Securitized Products, namely, agency pass-through mortgage-backed securities traded to be announced not for good delivery.

Finally, FINRA has modified its approach to simplifying the reporting process for pre-issuance CMOs from what it proposed in its *Regulatory Notice*. As noted above, FINRA understands that in many cases, particularly for private label securities, the characteristics of a new issue may not be finalized until the first settlement date of the securities. As a result, FINRA is no longer proposing a reporting deadline two days prior to the first settlement date, but is instead proposing that pre-issuance CMO transactions be reported by the first settlement date.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2016–023 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2016–023. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2016–023, and should be submitted on or before July 27, 2016.

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[37] *See* FIF Letter at 2.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[38]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2016–15918 Filed 7–5–16; 8:45 am]

**BILLING CODE 8011–01–P**

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[38] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–78194; File No. SR–BatsBYX–2016–16]**

## Self-Regulatory Organizations; Bats BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Remove Interpretation and Policy .01 From Rule 11.13, Order Execution and Routing

June 29, 2016.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 23, 2016, Bats BYX Exchange, Inc. (the "Exchange" or "BYX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a "non-controversial" proposed rule change pursuant to section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to remove Interpretation & Policy .01 from Exchange Rule 11.13, as further described below.

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

Introduction

In 2011, the Exchange identified an inefficiency in its handling of certain non-displayed orders resting on the Exchange at a price equal to the Exchange's best displayed orders on the opposite side of the market ("Locking Price") (the non-displayed orders at the Locking Price, "Non-Displayed Orders"). Similarly, the Exchange identified an inefficiency in its handling of certain displayed orders that were ranked at the Locking Price and displayed at a permissible price one minimum price variation away from the Locking Price (such orders "Resting Order Subject to NMS Price Sliding"). In order to avoid an apparent issue under its then-existing priority rule, the Exchange was rejecting incoming orders that were otherwise marketable against the Non-Displayed Orders or the Resting Orders Subject to NMS Price Sliding. In order to optimize available liquidity for incoming orders and to provide price improvement for market participants, the Exchange proposed in May of 2011 to execute a resting Non-Displayed Order or Resting Order Subject to NMS Price Sliding at one-half minimum price variation less than the Locking Price in the case of a bid and one-half minimum price variation more than the Locking Price in the case of an offer.[5]

To ease concerns that these new order-handling procedures could be abused solely for the purpose of obtaining executions at one-half minimum price variations—although there was no evidence to suggest this might occur—the Exchange included Interpretation and Policy .01 to Rule 11.13 stating:

> The Exchange will consider it inconsistent with just and equitable principles of trade to engage in a pattern or practice of using Non-Displayed Orders or orders subject to price sliding solely for the purpose of executing such orders at one-half minimum price variation from the locking price. Evidence of such behavior may include, but is not limited to, a User's pattern of entering orders at a price that would lock or be ranked at the price of a displayed quotation and cancelling orders when they no longer lock the displayed quotation.

The Exchange also stated in the 2011 Proposal that it would conduct surveillance to monitor for such potential abuse.[6]

The Commission approved the 2011 Proposal,[7] and the Exchange has conducted nearly five years of surveillance as it promised in the 2011 Proposal. After this lengthy period of surveillance, the Exchange has determined that there is no evidence that market participants attempt to use the Exchange's order handling procedures in Rule 11.13 solely to obtain executions at one-half minimum price variations. Further, the Exchange has found no way in which a market participant could abuse these order handling procedures. It is the Exchange's position, therefore, that Interpretation and Policy .01 and its corollary surveillance is now unnecessary. The Exchange proposes to remove the unnecessary Interpretation and Policy and to discontinue the corollary surveillance.

Background

Prior to the implementation of the 2011 Proposal, consistent with the Exchange's rule regarding priority of orders, Rule 11.12, in order to avoid an apparent priority issue under the Exchange's rules Non-Displayed Orders and Resting Orders Subject to NMS Price Sliding were not executed by the Exchange pursuant to Rule 11.13 when such orders would be executed at a Locking Price. Specifically, if incoming orders were allowed to execute against the resting Non-Displayed Order or the Resting Order Subject to NMS Price Sliding at the Locking Price, such orders would have received a perceived priority advantage over a resting, displayed contra-side order at the Locking Price; accordingly, such executions at the Locking Price were disallowed. As noted above, however, the Exchange proposed functionality to optimize available liquidity for incoming orders and to provide price improvement for market participants, which was subsequently approved and implemented by the Exchange.[8] Below is an example that illustrates how the Exchange has handled such orders following the implementation of functionality described in the 2011 Proposal.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 64476 (May 12, 2011), 76 FR 28826 (May 18, 2011) (SR–BYX–2011–009) ("2011 Proposal"). The reference to the most "aggressive" price, as used in that filing, means for bids the highest price the User is willing to pay, and for offers the lowest price at which the User is willing to sell.

[6] *See* 2011 Proposal, *supra* note 5, at 28829.

[7] *See* Securities Exchange Act Release No. 64753 (June 27, 2011), 76 FR 38714 (July 1, 2011) (SR–BYX–2011–009) (Order Approving a Proposed Rule Change To Amend BYX Rule 11.9, Entitled "Orders and Modifiers" and BYX Rule 11.13, Entitled "Order Execution") ("2011 Approval").

Assume the Exchange has a posted and displayed bid to buy 100 shares of a security priced at $10.10 per share, a resting Non-Displayed Order bid to buy 100 shares of a security priced at $10.11 per share, and a posted and displayed offer to sell 100 shares also at $10.11 per share. Assume the NBBO is also $10.10 by $10.11. The Exchange's order book (“BYX Book”) in this situation can be depicted as follows, with “ND” identifying the Non-Displayed Order:

| | Bid | | Offer |
|---|---|---|---|
| Bats: | $10.10 (ND)<br>$10.10 | X | $10.10 |

If an incoming offer to sell 100 shares at $10.10 is entered into the BYX Book, the resting Non-Displayed Order at the locking price will be executed at $10.105 per share, thus providing the resting Non-Displayed bid a half-penny of price improvement from its limit price of $10.11 and the incoming offer a half-penny of price improvement from its limit price of $10.10. The result would be the same for an incoming market order to sell or any other incoming limit order offer priced at $10.10 or below, which would execute against the Non-Displayed bid at a price of $10.105 per share. An offer at the full price of the resting and displayed $10.11 offer would not execute against the resting Non-Displayed bid, but would instead either cancel or post to the BYX Book behind the original $10.11 offer in priority. As described above, the Exchange has adopted similar functionality with respect to Resting Orders Subject to NMS Price Sliding.

### Interpretation and Policy .01 to Rule 11.13

In proposing the 2011 Proposal, there was concern from Commission staff that market participants may attempt to abuse the rule solely to obtain executions at one-half minimum price variations. To assuage the concern, the Exchange included Interpretation and Policy .01 to Rule 11.13 to state explicitly that the Exchange will consider it inconsistent with just and equitable principles of trade to engage in a pattern or practice of using Non-Displayed Orders or Resting Orders Subject to NMS Price Sliding solely for the purpose of executing such orders at one-half minimum price variations from the locking price. The Exchange further explained that evidence of such behavior may include, but is not limited to, a User's pattern of entering orders at a price that would lock or be ranked at the price of a displayed quotation and cancelling orders when they no longer lock the displayed quotation. The Exchange stated in the 2011 Proposal it would “conduct surveillance to ensure that Users are not intentionally seeking to create an internally locked Book for the purpose of obtaining an execution at one-half minimum price variation.”[9] The Exchange notes that when proposed the Exchange believed the functionality was a solution to a specific situation that was a natural consequence of the Exchange's order handling procedures, particularly due to offering Users the ability to enter orders that instruct the Exchange not to remove liquidity (*i.e.*, “Post Only Orders”) and to enter orders with non-displayed prices.[10] The Exchange still believes this to be the case and thus, as further described below, seeks to eliminate surveillance focused on orders and System functionality that are simply behaving as the Exchange intends them to behave.

In approving the rule change, the Staff noted the proposed Interpretation and Policy .01:

> The Exchange also proposes adding Interpretation and Policy .01 to BATS Rule 11.13 to state that the Exchange will consider it inconsistent with just and equitable principles of trade to engage in a pattern or practice of using Non-Displayed Orders or orders subject to price sliding solely for the purpose of executing such orders at one-half minimum price variation from the locking price. Evidence of such behavior may include, but is not limited to, a User's pattern of entering orders at a price that would lock or be ranked at the price of a displayed quotation and cancelling orders when they no longer lock the displayed quotation. The Exchange has also stated that it will conduct surveillance to ensure that users are not intentionally seeking to create an internally locked book for the purpose of obtaining an execution at a one-half minimum price variation.[11]

The Commission stated in its approval order that it “believes that any potential abuses are mitigated by the Exchange's addition of Interpretation and Policy .01 to BATS Rule 11.13 and its commitment to monitor relevant trading on its market.”[12]

### Proposal To Remove Interpretation and Policy .01 to Rule 11.13

The Exchange designed and implemented a surveillance program to monitor for abuse of the order handling procedures implemented by the 2011 Proposal and has conducted the surveillance for nearly five years. The Exchange has found over this period no evidence to suggest that market participants intentionally seek to create an internally locked book solely for the purpose of obtaining an execution at one-half minimum price variation. The evidence has shown that half-penny executions appear to be the natural result of order interactions on the Exchange. Further, since the change, market participants have received price improvement on both sides of a trade when that trade would have otherwise been prevented from occurring under the Exchange's prior functionality. The Exchange, therefore, no longer believes Interpretation and Policy .01 is necessary or appropriate.

The purpose of Interpretation and Policy .01 and the associated surveillance was to ensure that market participants would not find a way to abuse the new order handling procedures by engaging in a pattern or practice of entering non-displayed locking orders solely for the purpose of obtaining an execution at one-half minimum price variation. Since the Exchange has determined there is no evidence that such abuse has occurred the Exchange believes that Interpretation and Policy and corollary surveillance have served their purpose and are no longer necessary. The Exchange believes that its regulatory program would be better served by the removal of Interpretation and Policy .01 so that the Exchange staff may retire the surveillance and focus its regulatory efforts on activity that it has identified as having an impact on the safety and quality of its market.

Finally, Bats EDGX Exchange Inc. (“EDGX”) and Bats EDGA Exchange Inc. (“EDGA”) have substantively identical order handling functionality, but neither have the Interpretation and Policy this proposal seeks to remove. The Exchange, therefore, believes that the Interpretation and Policy is unnecessary and the Exchange proposes to remove it from Rule 11.13. Although the Exchange is proposing to remove Interpretation and Policy .01 from Rule 11.13, the Exchange notes that all trading activity on the Exchange, including orders entered and handled and executions resulting from the order handling procedures implemented by the 2011 Proposal, is subject to the Exchange's overall surveillance program, which monitors for potential violations of the federal securities laws and the regulations thereunder as well as Exchange Rules.

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[8] *See id.*

[9] *See* 2011 Proposal, *supra* note 5 at 28829.

[10] *See id.*

[11] *See* 2011 Approval, *supra* note 7 at 38714.

[12] *See* 2011 Approval, *supra* note 7 at 38715.

2. Statutory Basis

The rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of section 6(b) of the Act.[13] Specifically, the proposed change is consistent with section 6(b)(5) of the Act,[14] because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The proposed change to remove Interpretation and Policy .01 from Rule 11.13 will permit the Exchange to focus its regulatory efforts on conduct that more likely violates principles of just and equitable trade rather than dedicating regulatory staff and efforts on a topic which the Exchange has found no evidence of its existence. Since 2011, the Exchange has dedicated resources to operate regulatory surveillance and investigate potential abuse of the Exchange's functionality and has found that there is no evidence of abuse of the relevant order handling procedures solely for the purpose of obtaining one-half minimum price variations. The Exchange believes the proposal will promote just and equitable principles of trade and will help prevent fraudulent and manipulative acts by focusing regulatory efforts on activity that the Exchange has identified as having an impact on the safety and quality of its market rather than the hypothetical concern that Interpretation and Policy .01 was implemented to monitor.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change simply removes an interpretation and policy that the Exchange does not believe is necessary, as described above, and should have no effect on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has neither solicited nor received written comments on the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act[15] and Rule 19b–4(f)(6) thereunder.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File No. SR–BatsBYX–2016–16 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BatsBYX–2016–16. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BatsBYX–2016–16, and should be submitted on or before July 27, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2016–15917 Filed 7–5–16; 8:45 am]

**BILLING CODE 8011–01–P**

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[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[17] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–78193; File No. SR–BatsBZX–2016–28]**

## Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Remove Interpretation and Policy .01 From Rule 11.13, Order Execution and Routing

June 29, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 23, 2016, Bats BZX Exchange, Inc. (the "Exchange" or "BZX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to remove Interpretation & Policy .01 from Exchange Rule 11.13, as further described below.

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

Introduction

In 2011, the Exchange identified an inefficiency in its handling of certain non-displayed orders resting on the Exchange at a price equal to the Exchange's best displayed orders on the opposite side of the market ("Locking Price") (the non-displayed orders at the Locking Price, "Non-Displayed Orders"). Similarly, the Exchange identified an inefficiency in its handling of certain displayed orders that were ranked at the Locking Price and displayed at a permissible price one minimum price variation away from the Locking Price (such orders "Resting Order Subject to NMS Price Sliding"). In order to avoid an apparent issue under its then-existing priority rule, the Exchange was rejecting incoming orders that were otherwise marketable against the Non-Displayed Orders or the Resting Orders Subject to NMS Price Sliding. In order to optimize available liquidity for incoming orders and to provide price improvement for market participants, the Exchange proposed in May of 2011 to execute a resting Non-Displayed Order or Resting Order Subject to NMS Price Sliding at one-half minimum price variation less than the Locking Price in the case of a bid and one-half minimum price variation more than the Locking Price in the case of an offer.[5]

To ease concerns that these new order-handling procedures could be abused solely for the purpose of obtaining executions at one-half minimum price variations—although there was no evidence to suggest this might occur—the Exchange included Interpretation and Policy .01 to Rule 11.13 stating:

> The Exchange will consider it inconsistent with just and equitable principles of trade to engage in a pattern or practice of using Non-Displayed Orders or orders subject to price sliding solely for the purpose of executing such orders at one-half minimum price variation from the locking price. Evidence of such behavior may include, but is not limited to, a User's pattern of entering orders at a price that would lock or be ranked at the price of a displayed quotation and cancelling orders when they no longer lock the displayed quotation.

The Exchange also stated in the 2011 Proposal that it would conduct surveillance to monitor for such potential abuse.[6]

The Commission approved the 2011 Proposal,[7] and the Exchange has conducted nearly five years of surveillance as it promised in the 2011 Proposal. After this lengthy period of surveillance, the Exchange has determined that there is no evidence that market participants attempt to use the Exchange's order handling procedures in Rule 11.13 solely to obtain executions at one-half minimum price variations. Further, the Exchange has found no way in which a market participant could abuse these order handling procedures. It is the Exchange's position, therefore, that Interpretation and Policy .01 and its corollary surveillance is now unnecessary. The Exchange proposes to remove the unnecessary Interpretation and Policy and to discontinue the corollary surveillance.

Background

Prior to the implementation of the 2011 Proposal, consistent with the Exchange's rule regarding priority of orders, Rule 11.12, in order to avoid an apparent priority issue under the Exchange's rules Non-Displayed Orders and Resting Orders Subject to NMS Price Sliding were not executed by the Exchange pursuant to Rule 11.13 when such orders would be executed at a Locking Price. Specifically, if incoming orders were allowed to execute against the resting Non-Displayed Order or the Resting Order Subject to NMS Price Sliding at the Locking Price, such orders would have received a perceived priority advantage over a resting, displayed contra-side order at the Locking Price; accordingly, such executions at the Locking Price were disallowed. As noted above, however, the Exchange proposed functionality to optimize available liquidity for incoming orders and to provide price improvement for market participants, which was subsequently approved and implemented by the Exchange.[8] Below is an example that illustrates how the Exchange has handled such orders following the implementation of functionality described in the 2011 Proposal.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 64754 (May 12, 2011), 76 FR 28830 (May 18, 2011) (SR–BATS–2011–015) ("2011 Proposal"). The reference to the most "aggressive" price, as used in that filing, means for bids the highest price the User is willing to pay, and for offers the lowest price at which the User is willing to sell.

[6] *See* 2011 Proposal, *supra* note 5, at 28833.

[7] *See* Securities Exchange Act Release No. 64754 (June 27, 2011), 76 FR 38712 (July 1, 2011) (SR–BATS–2011–015) (Order Approving a Proposed Rule Change To Amend BATS Rule 11.9, Entitled "Orders and Modifiers" and BATS Rule 11.13, Entitled "Order Execution") ("2011 Approval").

[8] *See id.*

Assume the Exchange has a posted and displayed bid to buy 100 shares of a security priced at $10.10 per share, a resting Non-Displayed Order bid to buy 100 shares of a security priced at $10.11 per share, and a posted and displayed offer to sell 100 shares also at $10.11 per share. Assume the NBBO is also $10.10 by $10.11. The Exchange's order book ("BZX Book") in this situation can be depicted as follows, with "ND" identifying the Non-Displayed Order:

| | Bid | | Offer |
|---|---|---|---|
| Bats: | $10.11 (ND)<br>$10.10 | X | $10.11 |

If an incoming offer to sell 100 shares at $10.10 is entered into the BZX Book, the resting Non-Displayed Order at the locking price will be executed at $10.105 per share, thus providing the resting Non-Displayed bid a half-penny of price improvement from its limit price of $10.11 and the incoming offer a half-penny of price improvement from its limit price of $10.10. The result would be the same for an incoming market order to sell or any other incoming limit order offer priced at $10.10 or below, which would execute against the Non-Displayed bid at a price of $10.105 per share. An offer at the full price of the resting and displayed $10.11 offer would not execute against the resting Non-Displayed bid, but would instead either cancel or post to the BZX Book behind the original $10.11 offer in priority. As described above, the Exchange has adopted similar functionality with respect to Resting Orders Subject to NMS Price Sliding.

Interpretation and Policy .01 to Rule 11.13

In proposing the 2011 Proposal, there was concern from Commission staff that market participants may attempt to abuse the rule solely to obtain executions at one-half minimum price variations. To assuage the concern, the Exchange included Interpretation and Policy .01 to Rule 11.13 to state explicitly that the Exchange will consider it inconsistent with just and equitable principles of trade to engage in a pattern or practice of using Non-Displayed Orders or Resting Orders Subject to NMS Price Sliding solely for the purpose of executing such orders at one-half minimum price variations from the locking price. The Exchange further explained that evidence of such behavior may include, but is not limited to, a User's pattern of entering orders at a price that would lock or be ranked at the price of a displayed quotation and cancelling orders when they no longer lock the displayed quotation. The Exchange stated in the 2011 Proposal it would "conduct surveillance to ensure that Users are not intentionally seeking to create an internally locked Book for the purpose of obtaining an execution at one-half minimum price variation."[9] The Exchange notes that when proposed the Exchange believed the functionality was a solution to a specific situation that was a natural consequence of the Exchange's order handling procedures, particularly due to offering Users the ability to enter orders that instruct the Exchange not to remove liquidity (*i.e.*, "Post Only Orders") and to enter orders with non-displayed prices.[10] The Exchange still believes this to be the case and thus, as further described below, seeks to eliminate surveillance focused on orders and System functionality that are simply behaving as the Exchange intends them to behave.

In approving the rule change, the Staff noted the proposed Interpretation and Policy .01:

> The Exchange also proposes adding Interpretation and Policy .01 to BATS Rule 11.13 to state that the Exchange will consider it inconsistent with just and equitable principles of trade to engage in a pattern or practice of using Non-Displayed Orders or orders subject to price sliding solely for the purpose of executing such orders at one-half minimum price variation from the locking price. Evidence of such behavior may include, but is not limited to, a User's pattern of entering orders at a price that would lock or be ranked at the price of a displayed quotation and cancelling orders when they no longer lock the displayed quotation. The Exchange has also stated that it will conduct surveillance to ensure that users are not intentionally seeking to create an internally locked book for the purpose of obtaining an execution at a one-half minimum price variation.[11]

The Commission stated in its approval order that it "believes that any potential abuses are mitigated by the Exchange's addition of Interpretation and Policy .01 to BATS Rule 11.13 and its commitment to monitor relevant trading on its market."[12]

Proposal To Remove Interpretation and Policy .01 to Rule 11.13

The Exchange designed and implemented a surveillance program to monitor for abuse of the order handling procedures implemented by the 2011 Proposal and has conducted the surveillance for nearly five years. The Exchange has found over this period no evidence to suggest that market participants intentionally seek to create an internally locked book solely for the purpose of obtaining an execution at one-half minimum price variation. The evidence has shown that half-penny executions appear to be the natural result of order interactions on the Exchange. Further, since the change, market participants have received price improvement on both sides of a trade when that trade would have otherwise been prevented from occurring under the Exchange's prior functionality. The Exchange, therefore, no longer believes Interpretation and Policy .01 is necessary or appropriate.

The purpose of Interpretation and Policy .01 and the associated surveillance was to ensure that market participants would not find a way to abuse the new order handling procedures by engaging in a pattern or practice of entering non-displayed locking orders solely for the purpose of obtaining an execution at one-half minimum price variation. Since the Exchange has determined there is no evidence that such abuse has occurred the Exchange believes that Interpretation and Policy and corollary surveillance have served their purpose and are no longer necessary. The Exchange believes that its regulatory program would be better served by the removal of Interpretation and Policy .01 so that the Exchange staff may retire the surveillance and focus its regulatory efforts on activity that it has identified as having an impact on the safety and quality of its market.

Finally, Bats EDGX Exchange Inc. ("EDGX") and Bats EDGA Exchange Inc. ("EDGA") have substantively identical order handling functionality, but neither have the Interpretation and Policy this proposal seeks to remove. The Exchange, therefore, believes that the Interpretation and Policy is unnecessary and the Exchange proposes to remove it from Rule 11.13. Although the Exchange is proposing to remove Interpretation and Policy .01 from Rule 11.13, the Exchange notes that all trading activity on the Exchange, including orders entered and handled and executions resulting from the order handling procedures implemented by the 2011 Proposal, is subject to the Exchange's overall surveillance program, which monitors for potential violations of the federal securities laws and the regulations thereunder as well as Exchange Rules.

2. Statutory Basis

The rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[13] Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,[14] because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The proposed change to remove Interpretation and Policy .01 from Rule 11.13 will permit the Exchange to focus its regulatory efforts on conduct that more likely violates principles of just and equitable trade rather than dedicating regulatory staff and efforts on a topic which the Exchange has found no evidence of its existence. Since 2011, the Exchange has dedicated resources to operate regulatory surveillance and investigate potential abuse of the Exchange's functionality and has found that there is no evidence of abuse of the relevant order handling procedures solely for the purpose of obtaining one-half minimum price variations. The Exchange believes the proposal will promote just and equitable principles of trade and will help prevent fraudulent and manipulative acts by focusing regulatory efforts on activity that the Exchange has identified as having an impact on the safety and quality of its market rather than the hypothetical concern that Interpretation and Policy .01 was implemented to monitor.

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[9] *See* 2011 Proposal, *supra* note 5, at 28833.

[10] *See id.*

[11] *See* 2011 Approval, *supra* note 7 at 38713.

[12] *Id.*

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change simply removes an interpretation and policy that the Exchange does not believe is necessary, as described above, and should have no effect on competition.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has neither solicited nor received written comments on the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[15] and Rule 19b–4(f)(6) thereunder.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

### *Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–BatsBZX–2016–28 on the subject line.

### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BatsBZX–2016–28. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BatsBZX–2016–28, and should be submitted on or before July 27, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2016–15916 Filed 7–5–16; 8:45 am]

**BILLING CODE 8011–01–P**

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## SECURITIES AND EXCHANGE COMMISSION

## Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, July 7, 2016 at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Chair White, as duty officer, voted to consider the items listed for the Closed Meeting in closed session.

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[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[17] 17 CFR 200.30–3(a)(12).

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact Brent J. Fields from the Office of the Secretary at (202) 551–5400.

Dated: June 30, 2016.

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2016–16076 Filed 7–1–16; 11:15 am]

**BILLING CODE 8011–01–P**

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–78192; File No. SR–Phlx–2016–72]**

## Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Detection of Loss of Connection

June 29, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 15, 2016, NASDAQ PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Phlx Rule 1019, entitled "Acceptance of Bid or Offer" to adopt functionality which is designed to assist Phlx members and member organizations (hereinafter "member(s)") in the event that they lose communication with their assigned Financial Information eXchange ("FIX") [3] or Specialized Quote Feed ("SQF") [4] Ports due to a loss of connectivity.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Phlx proposes to amend Rule 1019 entitled "Acceptance of Bid or Offer" to adopt a new section "c" entitled "Detection of Loss of Connection," a new automated process which Phlx proposes to adopt for its SQF [5] and FIX Ports in the event that they lose communication with a Client Application due to a loss of connectivity. This feature is designed to protect Market Makers [6] and other market participants from inadvertent exposure to excessive risk.

By way of background, Phlx members currently enter quotes and orders utilizing either an SQF or FIX Port. SQF is utilized by Phlx Market Makers and FIX is utilized by all market participants. These ports are trading system components through which a member communicates its quotes and/or orders to the Phlx match engine through the member's Client Application. Under the proposed rule change, an SQF Port would be defined as the Exchange's system component through which members communicate their quotes from the member's Client Application at proposed Rule 1019(c)(i)(B). A FIX Port would be defined as the Exchange's system component through which members communicate their orders from the member's Client Application at proposed Rule 1019(c)(i)(C). Market Makers may submit quotes to the Exchange from one or more SQF Ports. Similarly, market participants may submit orders to the Exchange from one or more FIX Ports. The proposed cancellation feature will be mandatory for each Market Maker utilizing SQF for the removal of quotes and optional for any market participant utilizing FIX for the removal of orders.

When the SQF Port detects the loss of communication with a member's Client Application because the Exchange's server does not receive a Heartbeat message [7] for a certain period of time (a period of "nn" seconds), the Exchange will automatically logoff the member's affected Client Application and automatically cancel all of the member's open quotes. Quotes will be cancelled across all Client Applications that are associated with the same Specialist or Registered Options Trader (collectively "Market Maker") ID and underlying issues.

The Exchange proposes to define "Client Application" as the system component of the member through which the Exchange member or member organization communicates its quotes and orders to the Exchange at proposed Rule 1019(c)(i)(D). The Exchange proposes to define a "Heartbeat" message as a communication which acts as a virtual pulse between the SQF or FIX Port and the Client Application at proposed Rule 1019(c)(i)(A). The Heartbeat message sent by the member and subsequently received by the Exchange allows the SQF or FIX Port to continually monitor its connection with the member.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] FIX permits the entry of orders.

[4] SQF permits the transmission of quotes to the Exchange by a Market Maker using its Client Application. SQF Auction Responses would not be cancelled pursuant to this Rule 1019 because other rules govern auction specific responses. Market Sweeps would not be cancelled pursuant to this Rule 1019 because these type of orders are Immediate or Cancel ("IOC").

[5] Today, SQF has capability to cancel quotes for technical disconnects, although there is no automated process triggered by pre-set conditions. The rule change would adopt a formalized process to automatically cancel quotes when there is a loss of communication with the member's Client Application.

[6] Phlx Market Makers include Specialists and Registered Options Traders or "ROTs." A Specialist is an Exchange member who is registered as an options specialist. *See* Phlx Rule 1020(a). An ROT is defined in Exchange Rule 1014(b) as a regular member or a foreign currency options participant of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. *See* Exchange Rule 1014 (b)(i) and (ii). A ROT includes a Streaming Quote Trader or "SQT," a Remote Streaming Quote Trader or "RSQT" and a Non-SQT, which by definition is neither a SQT nor a RSQT. For purposes of this filing, Specialists and ROTs shall be defined broadly as "Market Makers."

[7] It is important to note that the Exchange separately sends a connectivity message to the member as evidence of connectivity.

SQF Ports

The Exchange's system has a default time period, which will trigger a disconnect from the Exchange and remove quotes, set to fifteen (15) seconds for SQF Ports. A member may change the default period of "nn" seconds of no technical connectivity to trigger a disconnect from the Exchange and remove quotes to a number between one hundred (100) milliseconds and 99,999 milliseconds for SQF Ports prior to each session of connectivity to the Exchange. This feature is enabled for each Market Maker and may not be disabled.

There are two ways to change the number of "nn" seconds: (1) Systemically or (2) by contacting the Exchange's operations staff. If the member systemically changes the default number of "nn" seconds, that new setting shall be in effect throughout the current session of connectivity[8] and will then default back to fifteen seconds.[9] The member may change the default setting systemically prior to each session of connectivity. The member may also communicate the time to the Exchange by calling the Exchange's operations staff. If the time period is communicated to the Exchange by calling Exchange operations, the number of "nn" seconds selected by the member shall persist for each subsequent session of connectivity until the member either contacts Exchange operations and changes the setting or the member systemically selects another time period prior to the next session of connectivity.

FIX Ports

The Exchange's system has a default time period, which will trigger a disconnect from the Exchange and remove orders, set to thirty (30) seconds for FIX Ports. The Phlx member may disable the removal of orders feature but not the disconnect feature. If the Phlx member elects to have its orders removed, in addition to the disconnect, the Phlx member may determine a time period of no technical connectivity to trigger the disconnect and removal of orders between one hundred (100) milliseconds and 99,999 milliseconds [sic].

There are two ways to change the number of "nn" seconds: (1) Systemically or (2) by contacting the Exchange's operations staff. If the member systemically changes the default number of "nn" seconds, that new setting shall be in effect throughout that session of connectivity and will then default back to thirty seconds at the end of that session. The member may change the default setting systemically prior to each session of connectivity. The member may also communicate the time to the Exchange by calling the Exchange's operations staff. If the time period is communicated to the Exchange by calling Exchange operations, the number of "nn" seconds selected by the member shall persist for each subsequent session of connectivity until the member either contacts Exchange operations and changes the setting or the member systemically selects another time period prior to the next session of connectivity.

Similar to SQF Ports, when a FIX Port detects the loss of communication with a member's Client Application for a certain time period (a period of "nn" seconds), the Exchange will automatically logoff the member's affected Client Application and if elected, automatically cancel all open orders. The member may have an order which has routed away prior to the cancellation, in the event that the order returns to the Order Book, because it was either not filled or partially filled, that order will be subsequently cancelled.

The disconnect feature is mandatory for FIX users however the user has the ability to elect to also enable a removal feature, which will cancel all open orders submitted through that FIX Port. If the removal of orders feature is not enabled, the system will simply disconnect the FIX user and not cancel any orders. The FIX user would have to commence a new session to add, modify or cancel its orders once disconnected. The Exchange will issue an Options Trader Alert advising members on the manner in which they should communicate the number of "nn" seconds to the Exchange for SQF and FIX Ports.

The trigger for the SQF and FIX Ports is event and Client Application specific. The automatic cancellation of the Market Maker's quotes for SQF Ports and open orders, if elected by the member for FIX Ports, entered into the respective SQF or FIX Ports via a particular Client Application will neither impact nor determine the treatment of the quotes of other Market Makers entered into SQF Ports or orders of the same or other members entered into the FIX Ports via a separate and distinct Client Application. In other words, with respect to quotes, each Market Maker only maintains one quote in a given option in the order book. A new quote would replace the existing quote. Orders on the other hand do not replace each other in the order book as multiple orders may exist in a given option at once. Therefore the difference in the impact as between Market Makers submitting quotes and members submitting orders is that quotes may continue to be submitted and/or refreshed by unaffected Market Makers because these market participants are cancelled based on ID when an SQF Port disconnects, whereas all of the open orders submitted by a given firm will be impacted when a FIX port disconnects, if the firm elected to have orders cancelled.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[10] in general, and furthers the objectives of Section 6(b)(5) of the Act[11] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by imposing this mandatory removal functionality on Market Makers to prevent disruption in the marketplace and also offering this removal feature to other market participants.

Market Makers will be required to utilize this removal functionality with respect to SQF Ports. This feature will remove impediments to and perfect the mechanism of a free and open market and a national market system and protect investors and the public interest by requiring Market Makers quotes to be removed in the event of a loss of connectivity with the Exchange's system. Market Makers provide liquidity to the market place and have obligations unlike other market participants.[12] This risk feature is important because it will enable Market Makers to avoid risks associated with inadvertent executions in the event of a loss of connectivity with the Exchange. The proposed rule change is designed to not permit unfair discrimination among market participants, as it would apply uniformly to all Market Makers utilizing SQF.

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[8] Each time the member connects to the Exchange's system is a new period of connectivity. For example, if the member were to connect and then disconnect within a trading day several times, each time the member disconnected the next session would be a new session of connectivity.

[9] The Exchange's system would capture the new setting information that was changed by the member and utilize the amended setting for that particular session. The setting would not persist beyond the current session of connectivity and the setting would default back to 15 seconds for the next session if the member did not change the setting again.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] *See* Rule 1014 titled "Obligations and Restrictions Applicable to Specialists and Registered Options Traders."

The disconnect feature of FIX is mandatory, however market participants will have the option to either enable or disable the cancellation feature, which would result in the cancellation of all orders submitted over a FIX port when such port disconnects. It is appropriate to offer this removal feature as optional to all market participants utilizing FIX, because unlike Market Makers who are required to provide quotes in all products in which they are registered, market participants utilizing FIX do not bear the same magnitude of risk of potential erroneous or unintended executions. In addition, market participants utilizing FIX may desire their orders to remain on the order book despite a technical disconnect, so as not to miss any opportunities for execution of such orders while the FIX session is disconnected.

Utilizing a time period for SQF Ports of fifteen (15) seconds and permitting the Market Maker to modify the setting to between 100 milliseconds and 99,999 milliseconds is consistent with the Act because the Exchange does not desire to trigger unwarranted logoffs of members and therefore allows members the ability to set their time in order to enable the Exchange the authority to disconnect the member with this feature. Each Market Maker has different levels of sensitivity with respect to this disconnect setting and each Market Maker has their own system safeguards as well. A default setting of fifteen (15) seconds is appropriate to capture the needs of all Market Makers and high enough not to trigger unwarranted removal of quotes.

Further, Market Makers are able to customize their setting. The Exchange's proposal to permit a timeframe for SQF Ports between 100 milliseconds and 99,999 milliseconds is consistent with the Act and the protection of investors because the purpose of this feature is to mitigate the risk of potential erroneous or unintended executions associated with a loss in communication with a Client Application. Members are able to better anticipate the appropriate time within which they may require prior to a logoff as compared to the Exchange. The member is being offered a timeframe by the Exchange within which to select the appropriate time. The Exchange does not desire to trigger unwarranted logoffs of members and therefore permits members to provide an alternative time to the Exchange, within the Exchange's prescribed timeframe, which authorized the Exchange to disconnect the member. The "nn" seconds serve as the member's instruction to the Exchange to act upon the loss of connection and remove quotes from the system. This range will accommodate members in selecting their appropriate times within the prescribed timeframes.

Also, Market Makers have quoting obligations[13] and are more sensitive to price movements as compared to other market participants. It is consistent with the Act to provide a wider timeframe within which to customize settings for FIX Ports as compared to SQF Ports. Market Makers need to remain vigilant of market conditions and react more quickly to market movements as compared to other members entering orders into the system. The proposal acknowledges this sensitivity borne by Market Makers and reflects the reaction time of Market Makers as compared to members entering orders. Of note, the proposed customized timeframe for FIX would be too long for Market Makers given their quoting requirements and sensitivity to price movements. Market Makers would be severely impacted by a loss of connectivity of more than several seconds. The Market Maker would have exposure during the time period in which they are unable to manage their quote and update that quote. The member is best positioned to determine their setting.

The Exchange's proposal is further consistent with the Act because it will mitigate the risk of potential erroneous or unintended executions associated with a loss in communication with a Client Application which protects investors and the public interest. Also, any interest that is executable against a Market Maker's quotes that is received[14] by the Exchange prior to the trigger of the disconnect to the Client Application, which is processed by the system, automatically executes at the price up to the Market Maker's size. In other words, the system will process the request for cancellation in the order it was received by the system.

The system operates consistently with the firm quote obligations of a broker-dealer pursuant to Rule 602 of Regulation NMS. Specifically, with respect to Market Makers, their obligation to provide continuous two-sided quotes on a daily basis is not diminished by the removal of such quotes triggered by the disconnect. Market Makers are required to provide continuous two-sided quotes on a daily basis.[15] Market Makers will not be relieved of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against a Market Maker for failing to meet the continuous quoting obligation each trading day as a result of disconnects.

Today, BOX Options Exchange LLC offers its market makers a similar feature to the one proposed by the Exchange for the automatic removal of quotes when connectivity issues arise.[16] BOX automatically cancels a market maker's quotes for all appointed classes when BOX loses communication with a market maker's trading host for a specified time period. Phlx also proposes to similarly cancel Market Maker open quotes associated with the same Market Maker ID and underlyings. Phlx proposes to cancel all Market Maker's quotes in options which are assigned to that particular Market Maker. BOX appears to similarly cancel all open quotes in options which are assigned to a specific Market Maker. BOX's timeframe is no less than 1 second or no greater than 9 seconds. Phlx proposes a default timeframe for SQF Ports of fifteen (15) seconds with the ability to modify this setting with a value between 100 milliseconds and 99,999 milliseconds. The proposal to permit Market Makers to amend the default setting at the beginning of each session of connectivity is consistent with the Act because it avoids unwarranted logoffs of members and provides members the opportunity to set a time, within the prescribed timeframe, to authorize the Exchange to disconnect the member.

Another distinction to note is that while BOX sets the time for the participant, Phlx permits members to modify the default setting for SQF Ports to a more appropriate time within a set of parameters. While BOX does not offer the cancellations of orders, Chicago Board Options Exchange, Incorporated's ("CBOE") does offer its members a similar mechanism to cancel orders. CBOE's proposal is discussed further below.

With respect to FIX Ports, the Exchange will offer this optional removal functionality to all market participants. Offering the removal feature on a voluntary basis to all other non-Market Maker market participants is consistent with the Act because it permits them an opportunity to utilize this risk feature, if desired, and avoid risks associated with inadvertent executions in the event of a loss of connectivity with the Exchange. The removal feature is designed to mitigate the risk of missed and/or unintended executions associated with a loss in communication with a Client Application. The proposed rule change is designed to not permit unfair discrimination among market participants, as this removal feature will be offered uniformly to all Phlx members utilizing FIX.

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[13] *Id.*

[14] The time of receipt for an order or quote is the time such message is processed by the Exchange book.

[15] *See* note 12 above.

[16] *See* BOX Rule 8140.

The Exchange will disconnect members from the Exchange and not cancel its orders if the removal feature is disabled. The disconnect feature is mandatory and will cause the member to be disconnected within the default timeframe or the timeframe otherwise specified by the member. This feature is consistent with the Act because it enables FIX users the ability to disconnect from the Exchange, assess the situation and make a determination concerning their risk exposure. The Exchange notes that in the event that orders need to be removed, the Phlx market participant may elect to utilize the Kill Switch[17] feature. The Exchange believes that it is consistent with the Act to require other market participants to be disconnected because the participant is otherwise not connected to the Exchange's system and the member simply needs to reconnect to commence submitting and cancelling orders. The Exchange believes requiring a disconnect when a loss of communication is detected is a rational course of action for the Exchange to alert the member of the technical connectivity issue.

The Exchange's proposal to set a default timeframe of thirty (30) seconds and permit a FIX user to modify the timeframe for FIX ports to between 1 second and 30 seconds for the removal of orders is consistent with the Act and the protection of investors because the purpose of this optional feature is to mitigate the risk of potential erroneous or unintended executions associated with a loss in communication with a Client Application. Members selecting the removal feature are able to better anticipate the appropriate time that they require prior to a logoff as compared to the Exchange, within the Exchange's prescribed timeframes. The Exchange does not desire to trigger unwarranted logoffs of members and therefore permits members to provide a time to the Exchange, within the Exchange's prescribed timeframe, to authorize the Exchange to disconnect the member and remove orders. The "nn" seconds serve as the member's instruction to the Exchange to act upon the loss of connection and remove orders from the system. The member is also best positioned to determine that they only desire the disconnect feature, which is mandatory, and do not desire to have their orders removed.

The Exchange's proposal to offer other market participants the removal feature on a voluntary basis is similar to CBOE's Rule.[18] CBOE offers market participants, on a voluntary basis, the ability to cancel orders entered through FIX when a technical disconnect occurs, similar to the Phlx proposal. CBOE's Rule offers members the opportunity to cancel orders within a timeframe determined by the Trading Permit Holder. The default value selected by the CBOE is no less than 5 seconds. The Exchange's default timeframe for the disconnect and removal of orders for FIX is 30 seconds with the ability to modify that timeframe to between 1 second and 30 seconds, on a session by session basis, in contrast to CBOE. Also, in contrast to CBOE, FIX users may choose to enable or disable the cancellation feature when a disconnect occurs. The proposed timeframe for the FIX feature is consistent with the Act because the Exchange seeks to provide its members with the ability to select the amount of time that they desire for a loss of communication prior to taking action to cancel open orders or simply disconnect. The member should have the ability to select the appropriate time, within a prescribed timeframe, for authorizing the Exchange to cancel its open orders or simply disconnect from the Exchange. Inadvertent cancellations may create a greater risk of harm to investors and the member is better positioned to determine the appropriate time, with the prescribed timeframe, to remove orders or disconnect. CBOE's rule also offers members the ability to cancel orders as proposed by Phlx, on a voluntary basis.

The proposed rule change will help maintain a fair and orderly market which promotes efficiency and protects investors. This mandatory removal feature for Market Makers and optional removal for all other market participants will mitigate the risk of potential erroneous or unintended executions associated with a loss in communication with a Client Application.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange does not believe the proposed rule change will cause an undue burden on intra-market competition because Market Makers, unlike other market participants, have greater risks in the market place. Quoting across many series in an option creates large principal positions that expose Market Makers, who are required to continuously quote in assigned options, to potentially significant market risk. Providing a broader timeframe for the disconnect and removal of orders for FIX as compared to the removal of quotes for SQF Ports does not create an undue burden on competition. Market Makers have quoting obligations[19] and are more sensitive to price movements as compared to other market participants. The proposal is consistent with the Act because it provides a tighter timeframe for the disconnect and removal of quotes for SQF Ports as compared to the removal of orders for FIX Ports. Market Makers need to remain vigilant of market conditions and react more quickly to market movements as compared to other members entering multiple orders into the system. The proposal reflects this sensitivity borne by Market Makers and reflects the reaction time of Market Makers as compared to other members entering orders. Offering the removal feature to other market participants on an optional basis does not create an undue burden on intra-market competition because unlike Market Makers, other market participants do not bear the same risks of potential erroneous or unintended executions. FIX users have the opportunity to disable the cancellation feature and simply disconnect from the Exchange. FIX users may also set a timeframe that is appropriate for their business. It is appropriate to offer this optional cancellation functionality to other market participants for open orders, because those orders are subject to risks of missed and/or unintended executions due to a lack of connectivity which the participants needs to weigh. Finally, the Exchange does not believe that such change will impose any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. Other options exchanges offer similar functionality.[20]

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

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[17] *See* Phlx Rule 1019(b).

[18] *See* CBOE Rule 6.23C.

[19] *See* note 12 above.

[20] *See* BOX's Rule 8140 and CBOE's Rule 6.23C.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[21] and Rule 19b–4(f)(6) thereunder.[22]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days from the date of filing. However, Rule 19b–4(f)(6)(iii)[23] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that it may immediately offer the proposed risk protection feature. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Exchange proposes to adopt a functionality designed to assist Phlx members with managing certain risks in the event that a member loses communication with their FIX or SQF Ports due to a loss of connectivity. The Commission notes that two other options exchanges currently have similar risk protection functionalities for their members.[24] Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal effective upon filing.[25] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2016–72 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2016–72. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2016–72 and should be submitted on or before July 27, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2016–15915 Filed 7–5–16; 8:45 am]

**BILLING CODE 8011–01–P**

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## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission Equity Market Structure Advisory Committee will hold a telephonic meeting on Friday, July 8, 2016. The meeting will begin at 2:00 p.m. (ET) and will be open to the public via webcast on the Commission's Web site at *www.sec.gov.*

On June 10, 2016, the Commission published notice of the Committee meeting (Release No. 34–78040), indicating that the meeting is open to the public and inviting the public to submit written comments to the Committee. This Sunshine Act notice is being issued because a majority of the Commission may attend the meeting.

The agenda for the meeting includes presentations by the Regulation NMS and Trading Venues Regulation subcommittees and consideration of a recommendation for an access fee pilot and recommendations related to trading venues regulation.

For further information, please contact Brent J. Fields from the Office of the Secretary at (202) 551–5400.

Dated: June 30, 2016.

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2016–16075 Filed 7–1–16; 11:15 am]

**BILLING CODE 8011–01–P**

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## DEPARTMENT OF STATE

**[Public Notice: 9628]**

### Advisory Committee for the Study of Eastern Europe and the Independent States of the Former Soviet Union (Title VIII)

The Advisory Committee for the Study of Eastern Europe and the Independent States of the Former Soviet Union (Title VIII) will convene on Monday, August 1, 2016, from 12:00 p.m. until approximately 3:00 p.m. The meeting will take place at the U.S. Department of State, Harry S. Truman

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[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intention to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[23] 17 CFR 240.19b–4(f)(6)(iii).

[24] *See* BOX Rule 8140 and CBOE Rule 6.23C.

[25] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[26] 17 CFR 200.30–3(a)(12).

Building, 2201 C Street NW., Washington, DC, Room 1205.

The Advisory Committee will recommend grant recipients for the FY 2015 competition of the Program for the Study of Eastern Europe and the Independent States of the Former Soviet Union, in accordance with the Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983, Public Law 98–164, as amended. The agenda will include opening statements by the chairperson and members of the committee. The committee will provide an overview and discussion of grant proposals from "national organizations with an interest and expertise in conducting research and training concerning the countries of Eastern Europe and the Independent States of the Former Soviet Union," based on the guidelines set forth in the June 3, 2016 request for proposals published on Grants.gov and GrantSolutions.gov. Following committee deliberation, interested members of the public may make oral statements concerning the Title VIII program.

This meeting will be open to the public; however, attendance is limited to available seating. Entry into the Harry S Truman building is controlled and must be arranged in advance of the meeting. Those planning to attend should notify the Title VIII Program Office at the U.S. Department of State on (202) 647–4562 no later than close of business, Wednesday, July 27, 2016.

For pre-clearance into the Harry S. Truman building, the Title VIII Program Officer will request identifying data pursuant to Public Law 99–399 (Omnibus Diplomatic Security and Antiterrorism Act of 1986), as amended; Public Law 107–56 (USA PATRIOT Act); and Executive Order 13356. The purpose of the collection is to validate the identity of individuals who enter Department facilities. The data will be entered into the Visitor Access Control System (VACS–D) database. Please review the Security Records System of Records Notice (State-36) at *http://foia.state.gov/_docs/SORN/State-36.pdf* for additional information.

All attendees must use the 2201 C Street entrance and must arrive no later than 11:30 a.m. to pass through security before entering the building. Visitors who arrive without prior notification and without photo identification cannot be admitted.

Dated: June 27, 2016.

**Nancy Cohen,**

*(Acting) Executive Director, Advisory Committee for Study of Eastern Europe and Eurasia (the Independent States of the Former Soviet Union).*

[FR Doc. 2016–15979 Filed 7–5–16; 8:45 am]

**BILLING CODE 4710–32–P**

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## SURFACE TRANSPORTATION BOARD

**[Docket No. AB 55 (Sub-No. 762X)]**

### CSX Transportation, Inc.—Discontinuance of Service Exemption—in Boone County, WV

CSX Transportation, Inc. (CSXT), filed a verified notice of exemption[1] under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over an approximately 9.0-mile rail line on its Southern Region, Huntington Division, Laurel Fork Subdivision, Engineering C&O Division, from CSXT's main line between milepost CLH 0.0 to the end of the line at milepost CLH 9.0 near Clothier, in Boone County, W. Va. (the Line). The Line traverses U.S. Postal Service Zip Codes 25114, 25021, and 25047, and includes the station of Ashely Kay at milepost CLH 7.3 (FSAC 81993/OPSL 65155.01), which CSXT states can be closed.

CSXT has certified that: (1) No freight traffic has moved over the Line for at least two years; (2) because the Line is not a through line, no overhead traffic has operated or needs to be rerouted; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line is pending either with the Surface Transportation Board or any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, this exemption will become effective on August 5, 2016, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2)[2] must be filed by July 18, 2016.[3] Petitions to reopen must be filed by July 26, 2016, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to CSXT's representative: Louis E. Gitomer, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Board decisions and notices are available on our Web site at "*WWW.STB.DOT.GOV.*"

Decided: June 30, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

**Kenyatta Clay,**

*Clearance Clerk.*

[FR Doc. 2016–15939 Filed 7–5–16; 8:45 am]

**BILLING CODE 4915–01–P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Twenty-Eighth Meeting Special Committee 216 Aeronautical Systems Security

**AGENCY:** Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

**ACTION:** Notice of Twenty-Eighth Meeting Special Committee 216 Aeronautical Systems Security.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting of

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[1] CSXT initially filed the notice of exemption on May 20, 2016. By letter filed June 7, 2016, CSXT notified the Board that it had omitted a Zip Code from its notice and requested that the proceeding be held in abeyance. The Board granted CSXT's request to allow it to submit supplemental information, and on June 16, 2016, CSXT submitted amendments to the notice. Therefore, June 16, 2016 is considered the filing date and the basis for all dates in this notice.

[2] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

[3] Because CSXT is seeking to discontinue service, not to abandon the line, trail use/rail banking and public use conditions are not appropriate. Because there will be environmental review during abandonment, this discontinuance does not require an environmental review.

Twenty-Eighth Meeting Special Committee 216 Aeronautical Systems Security.

**DATES:** The meeting will be held July 18, 2016 from 9:00 a.m. to 5:00 p.m.

**ADDRESSES:** The meeting will be held at The Boeing Company, 1301 SW 16th Street, Building 25–01, Room 22L18, Renton, WA 98057.

**FOR FURTHER INFORMATION CONTACT:** Karan Hofmann, *khofmann@rtca.org,* (202) 330–0680 or The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of Twenty-Eighth Meeting Special Committee 216 Aeronautical Systems Security. The agenda will include the following:

**Monday, July 18, 2016—9:00 a.m.–5:00 p.m.**

1. Welcome and Administrative Remarks
2. Introductions
3. Agenda Review
4. Meeting-Minutes Review
5. WG–72 Update
6. Schedule Update
7. Date, Place and Time of Next Meeting
8. New Business
9. Adjourn Plenary

Notice: Those who plan to attend in person need to provide the following information to Janice Clark at *janice.k.clark2@boeing.com* no later than Friday, July 8th:

Name

Country of citizenship

Company

E-mail address

Issued in Washington, DC, on June 29, 2016.

**Mohannad Dawoud,**

*Management & Program Analyst, Partnership Contracts Branch, ANG–A17, NexGen, Procurement Services Division, Federal Aviation Administration.*

[FR Doc. 2016–15996 Filed 7–5–16; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

### First Meeting Special Committee 236 Standards for Wireless Avionics Intra-Communication System (WAIC) Within 4200–4400 MHz

**AGENCY:** Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

**ACTION:** Notice of First Meeting Special Committee 236, Standards for Wireless Avionics Intra-Communication System (WAIC) within 4200–4400 MHz.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting of First Meeting Special Committee 236, Standards for Wireless Avionics Intra-Communication System (WAIC) within 4200–4400 MHz.

**DATES:** The meeting will be held August 9–10, 2016 from 9:00 a.m. to 5:00 p.m.

**ADDRESSES:** The meeting will be held at RTCA, Inc., 1150 18th Street NW., Suite 450, Washington, DC 20036.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Morrison, (202) 330–0654 or The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC, 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of First Meeting Special Committee 236, Standards for Wireless Avionics Intra-Communication System (WAIC) within 4200–4400 MHz. The agenda will include the following:

**Tuesday August 9, 2016—9:00 a.m.–5:00 p.m.**

1. Welcome
2. Administrative Remarks
3. Introductions
4. Agenda Review
5. RTCA Overview Presentation
    a. Background on RTCA, MOPS, and Process
6. SC–236 Scope and Terms of Reference review
7. Background Presentation on WAIC
8. Background Presentation on WG–96 status and work
9. SC–236 Structure and Organization of Work
10. Proposed Schedule
11. RTCA workspace presentation
12. Other Business
13. Date and Place of Next Meeting
14. Adjourn

**Thursday, August 10, 2016—9:00 a.m.–4:00 p.m.**

1. Continuation of Plenary or Working Group Session

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 29, 2016.

**Mohannad Dawoud,**

*Management & Program Analyst, Partnership Contracts Branch, ANG–A17, NexGen, Procurement Services Division, Federal Aviation Administration.*

[FR Doc. 2016–15998 Filed 7–5–16; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

### Public Notice for Waiver of Aeronautical Land-Use Assurance

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of intent of waiver with respect to land; Rantoul National Aviation Center-Frank Elliott Field, Rantoul, Illinois.

**SUMMARY:** The Federal Aviation Administration (FAA) is considering a proposal to change a portion of airport land from aeronautical use to non-aeronautical use at the Rantoul National Aviation Center-Frank Elliott Field, Illinois. The proposal consists of a total of 6.892 acres. This notice announces that the FAA is considering the release of the subject airport property at Rantoul National Aviation Center-Frank Elliott Field, from all federal land covenants. Approval does not constitute a commitment by the FAA to financially assist in disposal of the subject airport property nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA.

In accordance with section 47107(h) of Title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

**DATES:** Comments must be received on or before August 5, 2016.

**ADDRESSES:** Documents are available for review by prior appointment at the FAA Airports District Office, Gary D. Wilson, Program Manager, Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Des Plaines, IL, 60018. Telephone Number 847–294–7631/FAX: Number 847–294–7046 and Rantoul National Aviation Center-Frank Elliott Field, 333 South Tanner Street, Rantoul, Illinois 61866, and (217) 892–6895/Fax: (217) 892–5501.

Written comments on the Sponsor's request must be delivered or mailed to Mr. Gary D. Wilson, Program Manager, Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Des Plaines, Illinois 60018. Telephone: (847) 294–7631/Fax: (847) 294–7046.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gary D. Wilson, Program Manager, Federal Aviation Administration, Chicago Airports District Office, 2300 E. Devon Avenue, Des Plaines, Illinois 60018. Telephone: (847) 294–7631/Fax: (847) 294–7046.

**SUPPLEMENTARY INFORMATION:** In accordance with section 47107(h) of Title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

The Village of Rantoul is sponsor of the Rantoul National Aviation Center-Frank Elliott Field and is requesting release of 4.5 acres from Parcel A2b–3 and 2.392 acres from Parcel O2 (6.892 total).

The following are legal descriptions of the properties being released from Champaign County, Illinois:

### Parcel A2B–3

A tract of land being part of Section 2, Township 21 North, Range 9 East of the Third Principal Meridian, Champaign County, Illinois, described as follows, with bearing on Illinois State Plane Coordinate System—East Zone:

Commencing at the Northwest Corner of the Southwest Quarter of said Section 2 proceed North 89 degrees 38 minutes 35 seconds East along the North line of said Southwest Quarter, 507.81 feet; thence South 00 degrees 33 minutes 08 seconds East, 563.08 feet to a point on the East line of Eagle Drive, being the True Point of Beginning; thence South 45 degree 33 minutes 46 seconds East, 84.61 feet; thence North 44 degrees 16 minutes 19 seconds East, 64.00 feet; thence North 89 degrees 16 minutes 19 seconds East, 84.86 feet; thence South 45 degrees 33 minutes 46 seconds East, 960.05 feet; thence South 44 degrees 16 minutes 19 seconds West, 396.02 feet to the Northerly line of Pacesetter Drive; thence North 45 degrees 33 minutes 46 seconds West along said Northerly line of Pacesetter Drive, 832.74 feet to said East line of Eagle Drive; thence North 00 degrees 33 minutes 08 seconds West along said East line of Eagle Drive, 384.62 feet to said True Point of Beginning, encompassing 4.5 acres more or less.

### Parcel O2

A tract of land being part of Section 2, Township 21 North, Range 9 East of the Third Principal Meridian, Champaign County, Illinois, described as follows, with bearing on Illinois State Plane Coordinate System—East Zone:

Commencing at the Northeast Corner of "Amerinvest Rantoul", recorded as Document 99R07994 in the Champaign County Recorder's Office, proceed North 89 degrees 26 minutes 40 seconds East, 50.00 feet, thence North 85 degrees 10 minutes 51 seconds East, 66.52 feet to a corner on the South line of International Avenue, being the True Point of Beginning, thence North 89 degrees 25 minutes 35 seconds East along said South line International Avenue, 361.78 feet to the West line Eagle Drive, thence South 00 degrees 33 minutes 08 seconds East along said West line of Eagle Drive, 275.94 feet to the Northeast corner of Parcel "01" as described in a Quit Claim Deed recorded as Document Number 2000R02944 in said Recorder's office, thence South 89 degrees 26 minutes 52 seconds west along the North line of said Parcel "01" as described in a Quit Claim Deed, 378.19 feet to the Northwest corner of said Parcel "01" as described in a Quit Claim Deed and also being the East line of Century Boulevard; thence North 00 degrees 32 minutes 12 seconds west along said East line of Century Boulevard, 259.39 feet; thence North 44 degrees 18 minutes 56 seconds East along an Easterly line of Century Boulevard, 23.16 feet to the True Point of Beginning, encompassing 2.392 acres more or less.

Issued in Des Plaines, Illinois on, June 22, 2016.

**Deb Bartell,**

*Acting Manager, Chicago Airports District Office, FAA, Great Lakes Region.*

[FR Doc. 2016–15981 Filed 7–5–16; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## Nineteenth SC–223 Plenary Meeting Calling Notice, Internet Protocol Suit (IPS) and AeroMACS

**AGENCY:** Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

**ACTION:** Notice of Nineteenth SC–223 Plenary Meeting Calling Notice, Internet Protocol Suit (IPS) and AeroMACS.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting of Nineteenth SC–223 Plenary Meeting Calling Notice, Internet Protocol Suit (IPS) and AeroMACS.

**DATES:** The meeting will be held August 17–19, 2016 from 9:00 a.m. to 5:00 p.m. Wednesday–Thursday, 9:00 a.m. to 12 p.m. Friday.

**ADDRESSES:** The meeting will be held at RTCA, Inc., 1150 18th Street NW., Suite 910, Washington, DC 20036.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Morrison, Program Director, *rmorrison@tca.org*, (202) 330–0654 or The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of Nineteenth SC–223 Plenary Meeting Calling Notice, Internet Protocol Suit (IPS) and AeroMACS. The agenda will include the following:

### August 17–19, 2016

1. Welcome, Introductions, Administrative Remarks
2. Review of Current State of Industry Standards
   a. ICAO WG–I
   b. AEEC IPS Sub Committee
3. Current State of Industry Activities
   a. SESAR Programs
   b. ESA IRIS Precursor
   c. FAA report on Safety/Hazard Assessment for DataComm, AeroMACS & SATCOM
   d. EUROCAE Status
   e. Any Other Activities
4. IPS Technical Discussions
   a. Review of IPS RFC Profiles
   i. RFC 791—IP: LST & Honeywell
   ii. RFC 2460—IPv6: LST & Honeywell
   iii. RFC 793—TCP: Harris & Airtel ATN
   iv. RFC 768—UDP: Mitre
   v. RFC 2474—DS Field: LS Tech
   vi. Any other RFCs?

b. Prioritization of additional IETF RFCs for Profiling
5. Any Other Topics of Interest
6. Plans for Next Meetings
7. Review of Action Items and Meeting Summary
8. Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 29, 2016.

**Mohannad Dawoud,**

*Management & Program Analyst, Partnership Contracts Branch, ANG–A17, NexGen, Procurement Services Division, Federal Aviation Administration.*

[FR Doc. 2016–15993 Filed 7–5–16; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Forty-Second Meeting Special Committee 224 Airport Security Access Control Systems

**AGENCY:** Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

**ACTION:** Notice of Forty-Second Meeting Special Committee 224 Airport Security Access Control Systems.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting of Forty-Second Meeting Special Committee 224 Airport Security Access Control Systems.

**DATES:** The meeting will be held August 2, 2016 from 10:00 a.m. to 1:00 p.m.

**ADDRESSES:** The meeting will be held at RTCA, Inc., 1150 18th Street NW., Suite 910, Washington, DC 20036.

**FOR FURTHER INFORMATION CONTACT:** Karan Hofmann, *khofmann@rtca.org*, (202) 330–0680 or The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of Forty-Second Meeting Special Committee 224 Airport Security Access Control Systems. The agenda will include the following:

**August 2, 2016**

1. Welcome/Introductions/Administrative Remarks
2. Review/Approve Previous Meeting Summary
3. Report from the TSA
4. Report on Safe Skies on Document Distribution
5. Report on TSA Security Construction Guidelines progress
6. Review of DO–230H Sections
7. Action Items for Next Meeting
8. Time and Place of Next Meeting
9. Any Other Business
10. Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 29, 2016.

**Mohannad Dawoud,**

*Management & Program Analyst, Partnership Contracts Branch, ANG–A17, NexGen, Procurement Services Division, Federal Aviation Administration.*

[FR Doc. 2016–15992 Filed 7–5–16; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Flight Operational Quality Assurance (FOQA) Program

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew a previously approved information collection. Flight Operational Quality Assurance (FOQA) is a program for the routine collection and analysis of digital flight data from airline operations, including but not limited to digital flight data currently collected pursuant to existing regulatory provisions. The FAA requires certificate holders who voluntarily establish approved FOQA programs to periodically provide aggregate trend analysis information from such programs to the FAA.

**DATES:** Written comments should be submitted by September 6, 2016.

**ADDRESSES:** Send comments to the FAA at the following address: Ronda Thompson, Room 441, Federal Aviation Administration, ASP–110, 950 L'Enfant Plaza SW., Washington, DC 20024.

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

**FOR FURTHER INFORMATION CONTACT:** Ronda Thompson by email at: *Ronda.Thompson@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 2120–0660.

*Title:* Flight Operational Quality Assurance (FOQA) Program.

*Form Numbers:* There are no FAA forms associated with this collection.

*Type of Review:* Renewal of an information collection.

*Background:* The purpose of collecting, analyzing, aggregating, and reporting this information is to identify potential threats to safety, and to enable early corrective action before such threats lead to accidents. FOQA can provide an objective source of information for FAA decision making, including identification of the need for new rulemaking based on observed trends in FOQA data. Title 14, Code of Federal Regulations (14 CFR), subpart 13.401, stipulates that the FAA does not use FOQA information in punitive enforcement action against an air carrier or its employees, when that air carrier has an FAA approved FOQA program. There are no legal or administrative requirements that necessitate this rule. The rule is intended to encourage the voluntary implementation of FOQA programs in the interest of safety enhancement.

*Respondents:* 60 airline operators.

*Frequency:* Information is collected monthly.

*Estimated Average Burden per Response:* 1 hour.

*Estimated Total Annual Burden:* 720 hours.

Issued in Washington, DC, on June 29, 2016.

**Ronda L. Thompson,**

*FAA Information Collection Clearance Officer, Performance, Policy, and Records Management Branch, ASP–110.*

[FR Doc. 2016–15991 Filed 7–5–16; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Notice of Final Federal Agency Actions on the Interstate 66 Outside the Beltway Project in Virginia

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of limitation on claims for judicial review of actions by FHWA.

**SUMMARY:** This notice announces actions taken by the FHWA that are final within the meaning of 23 U.S.C. 139(*l*)(1). The actions relate to the Interstate 66 Outside the Beltway project in Fairfax and Prince William Counties, Virginia. Those actions grant licenses, permits, and approvals for the project.

**DATES:** By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the project will be barred unless the claim is filed on or before December 5, 2016. Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of a permit, license, or approval issued by a Federal agency for a highway or public transportation capital project shall be barred unless it is filed within 150 days after publication of a notice in the **Federal Register** announcing that the permit, license, or approval is final pursuant to the law under which the agency action is taken, unless a shorter time is specified in the Federal law pursuant to which judicial review is allowed.

**FOR FURTHER INFORMATION CONTACT:** Mr. John Simkins, Planning and Environment Team Leader, Federal Highway Administration, 400 North 8th Street, Richmond, Virginia, 23219; telephone: (804) 775–3347; email: *John.Simkins@dot.gov.* The FHWA Virginia Division Office's normal business hours are 7:00 a.m. to 5:00 p.m. (Eastern Time). For the Virginia Department of Transportation: Mr. John Muse, 4975 Alliance Drive, Fairfax, VA 22030; email: *John.Muse@vdot.virginia.gov;* telephone: (703) 259–1215.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that FHWA has taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and approvals for the following project in the State of Virginia: Interstate 66 Outside the Beltway Project. The project would involve improvements to Interstate 66 between Interstate 495 and U.S. Route 15. The actions taken by FHWA, and the laws under which such actions were taken, are described in the Tier 1 Final Environmental Impact Statement and Tier 1 Record of Decision that was issued on November 20, 2013, the Tier 2 Final Environmental Assessment dated June 21, 2016, and the Tier 2 Finding of No Significant Impact that was issued on June 22, 2016. These documents and other project records are available on the project Web site at *http://outside.transform66.org,* and are also available by contacting FHWA or the Virginia Department of Transportation at the phone numbers and addresses provided above.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. General: National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act (FAHA) [23 U.S.C. 109 and 23 U.S.C. 128].

2. Air: Clean Air Act [42 U.S.C. 7401–7671(q)].

3. Land: Section 4(f) of the Department of Transportation Act of 1966 [23 U.S.C. 138 and 49 U.S.C. 303].

4. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*].

5. Social and Economic: Farmland Protection Policy Act [7 U.S.C. 4201–4209].

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

**Authority:** 23 U.S.C 139(*l*)(1) .

Issued On: June 28, 2016.

**John Simkins,**

*Planning and Environment Team Leader.*

[FR Doc. 2016–15950 Filed 7–5–16; 8:45 am]

**BILLING CODE 4910–RY–P**

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

### Application of Public Charters, Inc. for Commuter Authority

**AGENCY:** Department of Transportation.

**ACTION:** Notice of Order to Show Cause (Order 2016–6–14), Docket DOT–OST–2015–0234.

**SUMMARY:** The Department of Transportation is directing all interested persons to show cause why it should not issue an order tentatively finding Public Charters, Inc., fit, willing, and able to provide scheduled passenger service as a commuter air carrier using small aircraft pursuant to Part 135 of the Federal Aviation Regulations.

**DATES:** Persons wishing to file objections should do so no later than July 11, 2016.

**ADDRESSES:** Objections and answers to objections should be filed in Docket DOT–OST–2015–0234 and addressed to U.S. Department of Transportation, Docket Operations, (M–30, Room W12–140), 1200 New Jersey Avenue SE., West Building Ground Floor, Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

**FOR FURTHER INFORMATION CONTACT:** Catherine J. O'Toole, Air Carrier Fitness Division (X–56, Room W86–489), U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 366–9721.

Dated: June 27, 2016.

**Jenny T. Rosenberg,**

*Acting Assistant Secretary for Aviation and International Affairs.*

[FR Doc. 2016–15948 Filed 7–5–16; 8:45 am]

**BILLING CODE 4910–9X–P**

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## DEPARTMENT OF THE TREASURY

### Fiscal Service

### Prompt Payment Interest Rate; Contract Disputes Act

**AGENCY:** Bureau of the Fiscal Service, Treasury.

**ACTION:** Notice.

**SUMMARY:** For the period beginning July 1, 2016, and ending on December 31, 2016, the prompt payment interest rate is 1⅞ per centum per annum.

**ADDRESSES:** Comments or inquiries may be mailed to: E-Commerce Division, Bureau of the Fiscal Service, 401 14th Street SW., Room 306F, Washington, DC 20227. Comments or inquiries may also be emailed to *PromptPayment@fiscal.treasury.gov.*

**DATES:** Effective July 1, 2016, to December 31, 2016.

**FOR FURTHER INFORMATION CONTACT:** Thomas M. Burnum, E-Commerce Division, (202) 874–6430; or Thomas Kearns, Attorney-Advisor, Office of the Chief Counsel, (202) 874–7036.

**SUPPLEMENTARY INFORMATION:** An agency that has acquired property or service from a business concern and has failed to pay for the complete delivery of property or service by the required payment date shall pay the business concern an interest penalty. 31 U.S.C. 3902(a). The Contract Disputes Act of 1978, Sec. 12, Public Law 95–563, 92 Stat. 2389, and the Prompt Payment Act, 31 U.S.C. 3902(a), provide for the calculation of interest due on claims at the rate established by the Secretary of the Treasury.

The Secretary of the Treasury has the authority to specify the rate by which the interest shall be computed for interest payments under section 12 of the Contract Disputes Act of 1978 and under the Prompt Payment Act. Under the Prompt Payment Act, if an interest penalty is owed to a business concern, the penalty shall be paid regardless of whether the business concern requested payment of such penalty. 31 U.S.C. 3902(c)(1). Agencies must pay the interest penalty calculated with the interest rate, which is in effect at the time the agency accrues the obligation to pay a late payment interest penalty. 31 U.S.C. 3902(a). "The interest penalty shall be paid for the period beginning on the day after the required payment date and ending on the date on which payment is made." 31 U.S.C. 3902(b).

Therefore, notice is given that the Secretary of the Treasury has determined that the rate of interest applicable for the period beginning July 1, 2016, and ending on December 31, 2016, is 1⅞ per centum per annum.

**David A. Lebryk,**

*Fiscal Assistant Secretary.*

[FR Doc. 2016–16121 Filed 7–1–16; 4:15 pm]

**BILLING CODE 4810–AS–P**

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Regulations Governing Practice Before the Internal Revenue Service.

**DATES:** Written comments should be received on or before September 6, 2016 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the regulation should be directed to LaNita Van Dyke, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Regulations Governing Practice Before the Internal Revenue Service.

*OMB Number:* 1545–1871.

*Regulation Project Number:* REG–122379–02 (TD 9165).

*Abstract:* These regulations will ensure that taxpayers are provided adequate information regarding the limits of tax shelter advice that they receive, and also ensure that practitioners properly advise taxpayers of relevant information with respect to tax shelter options.

*Current Actions:* There is no change to this existing regulation.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations, and individuals or households.

*Estimated Number of Respondents:* 100,000.

*Estimated Time per Respondent:* 8 minutes.

*Estimated Total Annual Burden Hours:* 13,333.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 28, 2016.

**Tuawana Pinkston,**

*IRS Reports Clearance Officer.*

[FR Doc. 2016–15894 Filed 7–5–16; 8:45 am]

**BILLING CODE 4830–01–P**

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 1099–OID

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1099–OID, Original Issue Discount.

**DATES:** Written comments should be received on or before September 6, 2016 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Original Issue Discount.

*OMB Number:* 1545–0117.

*Form Number:* Form 1099–OID.

*Abstract:* Form 1099–OID is used for reporting original issue discount as required by section 6049 of the Internal Revenue Code. It is used to verify that income earned on discount obligations is properly reported by the recipient.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Businesses or other for-profit organizations.

*Estimated Number of Responses:* 2,667,000.

*Estimated Time per Response:* 12 min.

*Estimated Total Annual Burden Hours:* 526,730.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 27, 2016.

**Tuawana Pinkston,**

*IRS Reports Clearance Officer.*

[FR Doc. 2016–15892 Filed 7–5–16; 8:45 am]

**BILLING CODE 4830–01–P**

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 8831

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8831, Excise Taxes on Excess Inclusions of REMIC Residual Interests.

**DATES:** Written comments should be received on or before September 6, 2016 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Sara Covington, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Sara.L.Covington@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Excise Taxes on Excess Inclusions of REMIC Residual Interests.

*OMB Number:* 1545–1379.

*Form Number:* 8831.

*Abstract:* Taxpayers use Form 8831 to report and pay excise tax on any transfer of a residual interest in a REMIC to a disqualified organization, the amount due if the tax is waived, and the excise tax due on pass-through entities with interests held by disqualified organizations.

*Current Actions:* There is no changes being made to Form 8831 at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 31.

*Estimated Time per Respondent:* 7 hrs., 39 min.

*Estimated Total Annual Burden Hours:* 237.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 27, 2016.

**Tuawana Pinkston,**

*IRS Reports Clearance Officer.*

[FR Doc. 2016–15893 Filed 7–5–16; 8:45 am]

**BILLING CODE 4830–01–P**

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 8275 and 8275–R

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information

collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8275, Disclosure Statement, and Form 8275–R, Regulation Disclosure Statement.

**DATES:** Written comments should be received on or before September 6, 2016 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Allan.M.Hopkins@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Disclosure Statement (Form 8275) and Regulation Disclosure Statement (Form 8275–R).

*OMB Number:* 1545–0889.

*Form Number:* Forms 8275 and 8275–R.

*Abstract:* Internal Revenue Code section 6662 imposes accuracy-related penalties on taxpayers for substantial understatement of tax liability or negligence or disregard of rules and regulations. Code section 6694 imposes similar penalties on return preparers. Regulations sections 1.662–4(e) and (f) provide for reduction of these penalties if adequate disclosure of the tax treatment is made on Form 8275 or, if the position is contrary to regulation on Form 8275–R.

*Current Actions:* There are no changes to the forms at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations and individuals, not-for-profit institutions, and farms.

*Estimated Number of Responses:* 666,666.

*Estimated Time per Response:* 5 hours, 34 minutes.

*Estimated Total Annual Burden Hours:* 3,716,664.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 29, 2016.

**Allan Hopkins,**

*Tax Analyst.*

[FR Doc. 2016–15905 Filed 7–5–16; 8:45 am]

**BILLING CODE 4830–01–P**

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## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## Publication of Nonconventional Source Production Credit Reference Price for Calendar Year 2015

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice.

**SUMMARY:** Publication of the reference price for the nonconventional source production credit for calendar year 2015. The credit period for nonconventional source production credit ended on December 31, 2013 for facilities producing coke or coke gas (other than from petroleum based products). However, the reference price continues to apply in determining the amount of the enhanced oil recovery credit under section 43, the marginal well production credit under section 45I, and the percentage depletion in case of oil and natural gas produced from marginal properties under section 613A.

**DATES:** The reference price under section 45K(d)(2)(C) for calendar year 2015 applies for purposes of sections 43, 45I, and 613A for taxable year 2016.

*Reference Price:* The reference price under section 45K(d)(2)(C) for calendar year 2015 is $44.39.

**FOR FURTHER INFORMATION CONTACT:** Martha Garcia, CC:PSI:6, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, Telephone Number (202) 317–6853 (not a toll-free number).

**Christopher T. Kelley,**

*Special Counsel to the Associate Chief Counsel, (Passthroughs and Special Industries).*

[FR Doc. 2016–15936 Filed 7–5–16; 8:45 am]

**BILLING CODE 4830–01–P**

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## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning TD 9107, Guidance Regarding Deduction and Capitalization of Expenditures.

**DATES:** Written comments should be received on or before September 6, 2016 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of this regulation should be directed to Martha R. Brinson, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Guidance Regarding Deduction and Capitalization of Expenditures.

*OMB Number:* 1545–1870.

*Regulation Project Number:* TD 9107.

*Abstract:* The information required to be retained by taxpayers will constitute sufficient documentation for purposes of substantiating a deduction. The information will be used by the agency on audit to determine the taxpayer's entitlement to a deduction. The respondents include taxpayers who engage in certain transactions involving the acquisition of a trade or business or an ownership interest in a legal entity.

*Current Actions:* There is no change in the paperwork burden previously approved by OMB.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 3,000.

*Estimated Time per Respondent:* 1 hr.

*Estimated Total Annual Burden Hours:* 3,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 27, 2016.

**Tuawana Pinkston,**

*IRS Reports Clearance Officer.*

[FR Doc. 2016–15908 Filed 7–5–16; 8:45 am]

**BILLING CODE 4830–01–P**

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Information Collection Tools

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing Revenue Procedure 2001–29, Leveraged Leases.

**DATES:** Written comments should be received on or before September 6, 2016 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the collection tools should be directed to LaNita Van Dyke, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Lanita.VanDyke@irs.gov.*

**SUPPLEMENTARY INFORMATION:** Currently, the IRS is seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

*Title:* Leveraged Leases.

*OMB Number:* 1545–1738.

*Form Number:* Rev Proc 2001–29.

*Abstract:* Revenue Procedure 2001–29 sets forth the information and representations required to be furnished by taxpayers in requests for an advance ruling that a leveraged lease transaction is, in fact, a valid lease for federal income tax purposes.

*Current Actions:* There are no changes being made to the revenue procedure at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households, business or other for-profit organizations, and not-for-profit institutions.

*Estimated Number of Respondents:* 10.

*Estimated Time per Respondent:* 80 hr.

*Estimated Total Annual Reporting Burden hours:* 800.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 28, 2016.

**Tuawana Pinkston,**

*IRS Reports Clearance Officer.*

[FR Doc. 2016–15895 Filed 7–5–16; 8:45 am]

**BILLING CODE 4830–01–P**

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form T (Timber).

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995,

Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form T (Timber), Forest Activities Schedule

**DATES:** Written comments should be received on or before September 6, 2016 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the collection tools should be directed to LaNita Van Dyke, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov.*

**SUPPLEMENTARY INFORMATION:** Currently, the IRS is seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

*Title:* Forest Activities Schedule.

*OMB Number:* 1545–0007.

*Form Number:* Form T (Timber).

*Abstract:* Form T (Timber) is filed by individuals and corporations to report income and deductions from the operation of a timber business. The IRS uses Form T (Timber) to determine if the correct amount of income and deductions are reported.

*Current Actions:* There are no changes to the previously approved burden of this existing collection.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households, Businesses or other for-profit organizations.

*Estimated Number of Respondents:* 37,000.

*Estimated Time per Respondent:* 36 hrs., 11 min.

*Estimated Total Annual Burden Hours:* 446,208.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 28, 2016.

**Tuawana Pinkston,**

*IRS Reports Clearance Officer.*

[FR Doc. 2016–15897 Filed 7–5–16; 8:45 am]

**BILLING CODE 4830–01–P**

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## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## Proposed Collection; Comment Request for Form 13803

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 13803, Application to Participate in the Income Verification Express Service (IVES) Program.

**DATES:** Written comments should be received on or before September 6, 2016 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Allan.M.Hopkins@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Application to Participate in the Income Verification Express Service (IVES) Program.

*OMB Number:* 1545–2032.

*Form Number:* Form 13803.

*Abstract:* Form 13803, Application to Participate in the Income Verification Express Service (IVES) Program, is used to submit the required information necessary to complete the e-services enrollment process for IVES users and to identify delegates receiving transcripts on behalf of the principle account user.

*Current Actions:* There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Businesses and other for-profit organizations.

*Estimated Number of Respondents:* 200.

*Estimated Time per Respondent:* 30 minutes.

*Estimated Total Annual Burden Hours:* 100.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 29, 2016.

**Allan Hopkins,**

*Tax Analyst.*

[FR Doc. 2016–15903 Filed 7–5–16; 8:45 am]

**BILLING CODE 4830–01–P**

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Notice 2010–54

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments Notice 2010–54, Production Tax Credit for Refined Coal.

**DATES:** Written comments should be received on or before September 6, 2016 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of this notice should be directed to Martha R. Brinson, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Production Tax Credit for Refined Coal.

*OMB Number:* 1545–2158.

*Notice Number:* Notice 2010–54.

*Abstract:* This notice sets forth interim guidance pending the issuance of regulations relating to the tax credit under § 45 of the Internal Revenue Code (Code) for refined coal.

*Current Actions:* There are no changes being made to the notice at this time.

*Type of Review:* Extension of currently approved collection.

*Affected Public:* Business and for-profit.

*Estimated Number of Respondents:* 100.

*Estimated Average Time per Respondent:* 15 hours.

*Estimated Total Annual Burden Hours:* 1,500 hrs.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 27, 2016.

**Tuawana Pinkston,**

*IRS Reports Clearance Officer.*

[FR Doc. 2016–15906 Filed 7–5–16; 8:45 am]

**BILLING CODE 4830–01–P**

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## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0055]**

### Agency Information Collection (Request for Determination of Loan Guaranty Eligibility Unmarried Surviving Spouses, VA Form 26–1817) Activity Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In Compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before August 5, 2016.

**ADDRESSES:** Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to "OMB Control No. 2900–0055" in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Manwell, Enterprise Records Service (005R1A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7474 or email *kathleen.manwell@va.gov.* Please refer to "OMB Control No. 2900–0055."

**SUPPLEMENTARY INFORMATION:**

*Title:* Request for Determination of Loan Guaranty Eligibility Unmarried Surviving Spouses.

*OMB Control Number:* 2900–0055.

*Type of Review:* Revision of a currently approved collection.

#### Abstract

Section 3702(c) of Title 38, U.S.C. states that any veteran may apply to the Secretary for a COE. A completed VA Form 26–1817 constitutes a formal request by an un-remarried surviving spouse for a COE.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 81 FR 07444 on April 4, 2016.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 833 hours.

*Estimated Average Burden per Respondent:* 10 minutes.

*Frequency of Response:* One-time.

*Estimated Number of Respondents:* 5000.

By direction of the Secretary:

**Kathleen M. Manwell,**

*Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.*

[FR Doc. 2016–15984 Filed 7–5–16; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0703]**

## Proposed Information Collection (Dependent's Educational Assistance (DEA) Election Letter)

*Activity:* Comment Request.

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before September 6, 2016.

**ADDRESSES:** Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov,* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to "OMB Control No. 2900–0703 in any correspondence. During the comment period, comments may be viewed online through the FDMS.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Title:* Dependent's Educational Assistance (DEA) Election Letter

*OMB Control Number:* 2900–0703.

*Type of Review:* Revision of a currently approved collection.

*Abstract:* VA FL 22–909 is used by eligible student children and some dependent spouses to elect the beginning date of their eligibility period under the Survivors' and Dependents' Educational Assistance (DEA) program. VA will use the information collected to determine when to begin their payment. It is mandatory VA notify the dependent child of the opportunity to make an election. It is not mandatory VA provide spouses the opportunity to make an election, but they may also elect a beginning date.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 96 hours.

*Estimated Average Burden per Respondent:* 15 minutes.

*Frequency of Response:* One-time.

*Estimated Number of Respondents:* 384.

By direction of the Secretary:

**Kathleen M. Manwell,**

*Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.*

[FR Doc. 2016–15985 Filed 7–5–16; 8:45 am]

**BILLING CODE 8320–01–P**

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## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0716]**

## Proposed Information Collection (Complaint of Employment Discrimination, VA Form 4939; Information for Pre-Complaint Processing, VA Form 08–10192) Activity: Comment Request

**AGENCY:** The Office of Resolution Management, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Office of Resolution Management (ORM), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection. This notice solicits comments on information needed to process a complaint of employment discrimination.

**DATES:** Comments must be submitted on or before August 5, 2016.

**ADDRESSES:** Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to "OMB Control No.: 2900–0716" in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov.* Please refer to "OMB Control No. 2900–0716."

**SUPPLEMENTARY INFORMATION:**

*Title:* Complaint of Employment Discrimination, VA Form 4939; Information for Pre-Complaint Processing, VA Form 08–10192

*OMB Control Number:* 2900–0716.

*Type of Review:* Revision request for inclusion of VA Form 08–10192.

*Abstract:* VA employees, former employees and applicants for employment who believe they were denied employment based on race, color, religion, gender, national origin, age, physical or mental disability, genetic information and/or reprisal for prior Equal Employment Opportunity activity complete VA Form 4939 to file a complaint of discrimination. VA Form 08–10192 is the initial contact form filled out by individuals who believe they may have been discriminated against.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 512.

*Estimated Average Burden per Respondent:* 30 minutes.

*Frequency of Response:* Annually.

*Estimated Number of Respondents:* 1022.

By direction of the Secretary:

**Kathleen Manwell,**

*Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.*

[FR Doc. 2016–15987 Filed 7–5–16; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0219]**

## Agency Information Collection: (Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) Benefits—Application, Claim, Other Health Insurance & Potential Liability)

*Activity:* Comment Request.

**AGENCY:** Veterans Health Administration, Department of Veterans Affairs.

**ACTION:** Notice.

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**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before August 5, 2016.

**ADDRESSES:** Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov*. Please refer to "OMB Control No. 2900–0219" in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov*. Please refer to "OMB Control No. 2900–0219."

**SUPPLEMENTARY INFORMATION:**

*Titles:*

1. VA Form 10–10d, Application for CHAMPVA Benefits
2. VA Form 10–7959a, CHAMPVA Claim Form
3. VA Form 10–7959c, CHAMPVA Other Health Insurance (OHI) Certification
4. VA Form 10–7959d, CHAMPVA Potential Liability Claim
5. VA Form 10–7959e, VA Claim for Miscellaneous Expenses
6. Payment (beneficially claims)
7. Review and Appeal Process

*OMB Control Number:* 2900–0219.

*Type of Review:* Revision.

*Abstracts:*

1. VA Form 10–10d, Application for CHAMPVA Benefits, is used to determine eligibility of persons applying for healthcare benefits under the CHAMPVA program in accordance with 38 U.S.C. Sections 501 and 1781.

2. VA Form 10–7959a, CHAMPVA Claim Form, is used to adjudicate claims for CHAMPVA benefits in accordance with 38 U.S.C. Sections 501 and 1781, and 10 U.S.C. Sections 1079 and 1086. This information is required for accurate adjudication and processing of beneficiary submitted claims. The claim form is also instrumental in the detection and prosecution of fraud. In addition, the claim form is the only mechanism to obtain, on an interim basis, other health insurance (OHI) information.

3. Except for Medicaid and health insurance policies that are purchased exclusively for the purpose of supplementing CHAMPVA benefits, CHAMPVA is always the secondary payer of healthcare benefits (38 U.S.C. Sections 501 and 1781, and 10 U.S.C. Section 1086). VA Form 10–7959c, CHAMPVA—Other Health Insurance (OHI) Certification, is used to systematically obtain OHI information and to correctly coordinate benefits among all liable parties.

4. The Federal Medical Care Recovery Act (42 U.S.C. 2651–2653), mandates recovery of costs associated with healthcare services related to an injury/illness caused by a third party. VA Form 10–7959d, CHAMPVA Potential Liability Claim, provides basic information from which potential liability can be assessed. Additional authority includes 38 U.S.C. Section 501; 38 CFR 1.900 *et seq.;* 10 U.S.C. Sections 1079 and 1086; 42 U.S.C. Sections 2651–2653; and Executive Order 9397.

5. VA Form 10–7959e, VA Claim for Miscellaneous Expenses, information collection is needed to carry out the health care programs for certain children of Korea and/or Vietnam veterans authorized under 38 U.S.C., chapter 18, as amended by section 401, Public Law 106–419 and section 102, Public Law 108–183. VA's medical regulations 38 CFR part 17 (17.900 through 17.905) establish regulations regarding provision of health care for certain children of Korea and Vietnam veterans and women Vietnam veterans' children born with spina bifida and certain other covered birth defects. These regulations also specify the information to be included in requests for preauthorization and claims from approved health care providers.

6. Payment of Claims for Provision of Health Care for Certain Children of Korea and/or Vietnam Veterans (includes provider billing and VA Forms 10–7959e). This data collection is for the purpose of claiming payment/reimbursement of expenses related to spina bifida and certain covered birth defects. Beneficiaries utilize VA Form 10–7959e, VA Claim for Miscellaneous Expenses. Providers utilize provider generated billing statements and standard billing forms such as: Uniform Billing-Forms UB–04, and CMS 1500, Medicare Health Insurance Claims Form. VA would be unable to determine the correct amount to reimburse providers for their services or beneficiaries for covered expenses without the requested information. The information is instrumental in the timely and accurate processing of provider and beneficiary claims for reimbursement. The frequency of submissions is not determined by VA, but will determined by the provider or claimant and will be based on the volume of medical services and supplies provided to patients and claims for reimbursement are submitted individually or in batches.

7. Review and Appeal Process Regarding Provision of Health Care or Payment Relating to Provision of Health Care for Certain Children of Korea and/or Vietnam Veterans. The provisions of 38 CFR 17.904 establish a review process regarding disagreements by an eligible veteran's child or representative with a determination concerning provision of health care or a health care provider's disagreement with a determination regarding payment. The person or entity requesting reconsideration of such determination is required to submit such a request to the Chief Business Office Purchased Care (CBOPC) (Attention: Chief, Customer Service), in writing within one year of the date of initial determination. The request must state why the decision is in error and include any new and relevant information not previously considered. After reviewing the matter, a Customer Service Advisor issues a written determination to the person or entity seeking reconsideration. If such person or entity remains dissatisfied with the determination, the person or entity is permitted to submit within 90 days of the date of the decision a written request for review by the Director, CBOPC.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:*

1. VA Form 10–10d—4,411 hours.
2. VA Form 10–7959a—37,336 hours.
3. VA Form 10–7959c—13,456 hours.
4. VA Form 10–7959d—467 hours.
5. VA Form 10–7959e—206 hours.
6. Payment (beneficially claims)—500 hours.
7. Review and Appeal Process—200 hours.

*Estimated Average Burden Per Respondent:*

1. VA Form 10–10d—10 minutes.
2. VA Form 10–7959a—10 minutes.
3. VA Form 10–7959c—10 minutes.
4. VA Form 10–7959d—7 minutes.
5. VA Form 10–7959e—15 minutes.
6. Payment (beneficially claims)—10 minutes.
7. Review and Appeal Process—20 minutes.

*Frequency of Response:* Annually.

*Estimated Annual Responses:*

1. VA Form 10–10d—26,468.
2. VA Form 10–7959a—224,018.
3. VA Form 10–7959c—80,733.
4. VA Form 10–7959d—4,000.
5. VA Form 10–7959e—824.
6. Payment (beneficially claims)—3,000.

7. Review and Appeal Process—600.

By direction of the Secretary.

**Kathleen Manwell,**

*Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.*

[FR Doc. 2016–15983 Filed 7–5–16; 8:45 am]

**BILLING CODE 8320–01–P**

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## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0559]**

## Proposed Information Collection (State Cemetery Data Sheet and Cemetery Grant Document) Activity: Comment Request

**AGENCY:** National Cemetery Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The National Cemetery Administration (NCA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each revised collection allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine when to begin development of additional acreage for burial space and, in so doing, to anticipate when to provide money to expand or improve these National Cemeteries.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before September 6, 2016.

**ADDRESSES:** Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Willie Lewis, National Cemetery Administration (43D3), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; or email: *willie.lewis@va.gov.* Please refer to “OMB Control No. 2900–0559” in any correspondence. During the comment period, comments may be viewed online through the FDMS.

**FOR FURTHER INFORMATION CONTACT:** Willie Lewis at (202) 461–4242 or FAX (202) 501–2240.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, NCA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of NCA's functions, including whether the information will have practical utility; (2) the accuracy of NCA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Title:* State Cemetery Data, VA Form 40–0241 and Cemetery Grant Documents, 40–0895 Series.

*OMB Control Number:* 2900–0559.

*Type of Review:* Revision of an approved collection.

*Abstract:* VA Form 40–0241 and Cemetery Grant Documents, 40–0895 Series, are required to provide data regarding the number of interments conducted at State Veterans cemeteries and support grant applications each year. This data is necessary for budget, oversight and compliance purposes associated with exiting and establishment of new State and Tribal government Veteran cemeteries.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 10,049.

*Estimated Average Burden per Respondent:* 15 minutes.

*Frequency of Response:* One-time.

*Estimated Number of Respondents:* 286.

Dated: June 11, 2016.

By direction of the Secretary.

**Kathleen Manwell,**

*Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.*

[FR Doc. 2016–15986 Filed 7–5–16; 8:45 am]

**BILLING CODE 8320–01–P**

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## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0798]**

## Proposed Information Collection (Beneficiary Travel Mileage Reimbursement Application Form, VA Form 10–3542)

Activity: Comment Request

**AGENCY:** Veterans Health Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the VHA Beneficiary Travel (BT) program, which provides mileage reimbursement to qualified Veterans or other claimant(s) who incur expense in traveling to healthcare.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before September 6, 2016.

**ADDRESSES:** Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Brian McCarthy, Office of Regulatory and Administrative Affairs, Veterans Health Administration (10B4), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email: *Brian.McCarthy4@va.gov.* Please refer to “OMB Control No. 2900–0798” in any correspondence. During the comment period, comments may be viewed online through the FDMS.

**FOR FURTHER INFORMATION CONTACT:** Brian McCarthy at (202) 461–6345.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Title:* Beneficiary Travel Mileage Reimbursement Application Form.

*OMB Control Number:* 2900–0798.

*Type of Review:* Extension of a Currently Approved Collection.

*Abstract:* The information collection is for beneficiaries to apply for the BT mileage reimbursement benefit. VHA determines the identity of the claimant, the dates and length of the trip being claimed based on addresses of starting and ending points, and whether expenses other than mileage are being claimed. The claimant is required to sign the form. The form is used only when the claimant chooses not to apply verbally and is provided for their convenience. Once the information is obtained it is entered into a software program that calculates the mileage and resulting reimbursement.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 580,000 hours.

*Estimated Average Burden per Respondent:* 3 minutes.

*Frequency of Response:* 8 per year.

*Estimated Number of Respondents:* 1,450,000.

By direction of the Secretary.

**Kathleen M. Manwell,**

*Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.*

[FR Doc. 2016–15988 Filed 7–5–16; 8:45 am]

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## Part II

## Department of Housing and Urban Development

24 CFR Part 982
Housing Choice Voucher Program—New Administrative Fee Formula; Proposed Rule

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**24 CFR Part 982**

**[Docket No. FR–5874–P–03]**

**RIN 2577–AC99**

## Housing Choice Voucher Program—New Administrative Fee Formula

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Proposed rule.

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**SUMMARY:** This rule proposes a new methodology for determining the amount of funding a public housing agency (PHA) will receive for administering the Housing Choice Voucher (HCV) program—one that uses factors that a recently completed study demonstrates are more reflective of how much it costs to administer the HCV program. Ongoing administrative fees under the HCV program are currently calculated based on the number of vouchers under lease and a percentage of the 1993 or 1994 local fair market rent, with an annual inflation adjustment. The new administrative fee formula proposed by this rule is based on a study conducted by Abt Associates for HUD that measured the actual costs of operating high-performing and efficient HCV programs and recommended a new administrative fee formula. In this rule, HUD proposes to adopt the recommended formula with modifications based largely on comments HUD received in response to a June 26, 2015 notice that solicited comment on the study.

This rule proposes an ongoing administrative fee for a PHA that would be calculated based on six variables: Program size, wage rates, benefit load, percent of households with earned income, new admissions rate, and percent of assisted households that live a significant distance from the PHA's headquarters. The PHA's fee would be calculated each year based on these cost factors and a revised inflation factor would be applied to the calculated fee. This proposed rule also provides HUD with the flexibility to provide additional fees to PHAs to address program priorities such as special voucher programs (*e.g.,* the HUD-Veterans Affairs Supportive Housing program), serving homeless households, and expanding housing opportunities.

**DATES:** *Comment Due Date:* October 4, 2016.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500.

2. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

**Note:** To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

*No Facsimile Comments.* Facsimile (fax) comments are not acceptable.

*Public Inspection of Public Comments.* All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202–402–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service, toll-free, at 800–877–8339. Copies of all comments submitted are available for inspection and downloading at *www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Amy Ginger, Director, Office of Housing Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4228, Washington, DC 20410; telephone number 202–402–5152 (this is not a toll-free number). Persons with hearing or speech impairments may access this number by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

**SUPPLEMENTARY INFORMATION:**

## I. Executive Summary

### *A. Purpose of This Proposed Rule*

The purpose of this rule is to establish a formula for determining fees to be paid to PHAs for administration of an HCV program that better captures the costs of the program and that therefore better compensates PHAs for their administration of an HCV program. The existing fee formula was established in 2008 and calculates two fee rates (1) a fee rate that applies to the first 7,200 voucher unit months under lease; and (2) a fee rate that applies to all subsequent unit months under lease. Both fee rates are based on a percentage of the 1993 or 1994 fair market rent, limited by floor and ceiling amounts, and multiplied by an inflation factor that captures the increase in local wage rates over time. Since 2008, administrative fees for the HCV program have been prorated to remain within the amounts authorized under HUD's annual appropriations acts.

As noted in the Summary, the formula proposed in this rule is based on a study conducted by Abt Associates[1] and their recommendation that the formula be based on specific cost factors that are discussed in detail in this preamble. The proposed formula would not be tied to FMRs, as is currently the case. The study advised that FMRs do not have a strong link to administrative costs. For the reasons presented in this preamble and the accompanying Regulatory Impact Analysis, HUD believes that the formula proposed in this rule better captures the costs of administration of an HCV program.

### *B. Summary of Major Provisions of This Proposed Rule*

The major provisions of the proposed rule relate to HUD's regulations in 24 CFR 982.152, which are the regulations for the administrative fee. This proposed rule would revise the regulations in paragraph (b) of this section, which sets out the formula for determining the "ongoing" administrative fee. The ongoing administrative fee is paid to a PHA for each unit under a housing assistance payment (HAP) contract. The proposed rule replaces the existing language in this paragraph with a new formula that is based on the study, HUD's further analysis of the study results, and comments received on the June 26, 2015 Solicitation of Comment, and highlighted in the Summary and Section I.A. of this preamble. Section 982.152(b), as proposed to be revised by this rule, lists the formula cost factors used to determine the administrative fee. These factors are based on an analysis of the actual relationship between specific cost drivers [2] and a PHA's administrative costs, using the most recent available data for the following factors: PHA program size, the wage index, the benefit load, the percent of households with earned income, the new admissions rate, the percent of voucher holders living more than 60 miles from the PHA's headquarters and any additional factors that may be established by HUD, as determined relevant to calculation of a fee that will reflect the actual costs of administration of the HCV program.

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[1] The draft final report for this study was published in April 2015 and the final report was published in August 2015.

The new language for § 982.152 provides that HUD will adjust the administrative fee determined under the new calculation if necessary to stay within maximum and minimum administrative fee amounts determined by HUD. The proposed rule provides (as discussed further below) that for PHAs outside the U.S. Territories, the maximum ongoing administrative fee is based on $109, adjusted for inflation, and the minimum ongoing administrative fee is based on $42, adjusted for inflation. For PHAs in the U.S. Territories, the proposed rule provides (as discussed further below) that the maximum ongoing administrative fee is based on $109, adjusted for inflation, and the minimum ongoing administrative fee is based on $54, adjusted for inflation. The proposed rule provides that the ongoing administrative fee ceiling and floor amounts will be adjusted annually for inflation in accordance with § 982.152(b)(1)(iii).

The proposed rule includes an inflation factor that will be used to account for inflation that has taken place between 2013, when the ongoing administrative fee formula's cost drivers were measured, and the point in time at which the amount of the ongoing administrative fee is determined annually by HUD. As further discussed below, the inflation factor is a blended rate, where 70 percent of the inflation rate captures changes in the cost of employee wages and benefits and 30 percent captures changes in the general cost of goods and services.

### *C. Costs and Benefits of This Proposed Rule*

The proposed rule advances a new methodology for determining the amount of funding a PHA will receive for administering the HCV program. The methodology is expected to provide a more accurate estimate of PHA-specific costs than the current method, which is based on FMRs. The most substantive economic impact of the rule will be a transfer from lower-cost to higher-cost PHAs. Approximately, $122 million will be transferred between PHAs, primarily from large to small PHAs. The aggregate transfer depends upon the assumed level of appropriation ($1,642 million) for HCV administration. For the base case scenario, the transfer represents 7.4 percent of administrative funds. Despite the large transfer, these funds remain within the HCV Program and continue to assist similar households.

The benefits and costs of the rule are qualitative. A benefit of the rule will be the improvement in the allocation of funds. Allocating funds in accordance with the estimated cost of operation will lead to a better-run program. However, transition to the new formula may incur some negligible administrative costs.

## II. Background

### The Current Housing Choice Voucher Administrative Fee Formula

HUD provides funding to over 2,200 PHAs to administer more than 2.2 million HCVs nationwide, using a formula that was established by statute in 1998 and applies from 1999 forward. This administrative fee formula is based primarily on fair market rents (FMRs) from Fiscal Years (FY) 1993 or 1994, and is found in section 8(q)(1) of the United States Housing Act of 1937 (1937 Act), which was established in its current form by Title V, section 547 of the Quality Housing and Work Responsibility Act (Pub. L. 105–276, approved October 21, 1998).

The FY 1999 calculation is found in section 8(q)(1)(B) of the 1937 Act (42 U.S.C. 1437f(q)(1)(B)), and provides that the monthly fee for which a dwelling unit is covered by an assistance contract shall be as follows:

- For a PHA with 600 or fewer units (*i.e.*, 7,200 unit months leased (UML) or less), 7.65 percent of the base amount.
- For a PHA with more than 600 units, the fee is 7.65 percent of the base amount for the first 600 units and 7.0 percent of the base amount for additional units above 600.

The base amount is calculated as the higher of:

○ The FY 1993 FMR for a 2 bedroom existing dwelling unit in the market area, or

○ The amount that is the lesser of the FY 1994 FMR for the same type of unit or 103.5 percent of the 1993 FMR for the same type of unit.

HUD currently adjusts these amounts annually based on an inflation factor that is calculated using the Bureau of Labor Statistics Quarterly Census for Employment and Wages (QCEW). The inflation factor reflects the percentage change in local government wages since 1993, based on the most recent annual data available at the time the fee is being calculated.

For years after 1999, section 8(q)(1)(C) of the 1937 Act (42 U.S.C. 1437f(q)(1)(C)) provides that HUD shall publish a **Federal Register** notice setting the administrative fee for each geographic area. The fee is to be based on changes in wage data or other objectively verifiable data that reflect the costs of administering the program, as determined by HUD. Despite this broad statutory authority, HUD has not—until now—proposed updating the administrative fee formula based on changes in wage data or other objectively measurable data that reflect the costs of operating the voucher program.

### Funding for Administrative Fees

Before 2003, PHAs generally received Housing Assistance Payment (HAP) funding for all the units under their authority and the full amount of administrative fees authorized by the fee formula in place for all leased units. After 2003, administrative fees began to be reduced in different ways. In 2003, PHAs still received fees based on the number of units leased. However, the fees received were reduced by the amount of the PHA's administrative fee reserves in excess of 105 percent of their calendar year (CY) 2002 fees.[3] Fees for CY 2004 through CY 2007 were not based on the number of units leased but rather on the previous year's fee eligibility, adjusted for any new units allocated after 2003. Therefore, in these years, fees were essentially frozen at the CY 2003 level with the only increase to the fee base coming from new units.

Beginning in CY 2008, administrative fees were once again earned on the basis of vouchers leased in accordance with section 8(q) of the 1937 Act. During this time, administrative fees were prorated in order to stay within the amounts appropriated under HUD's appropriations acts. From CY 2008 through CY 2010, the administrative fee proration was 90 percent or higher, meaning that PHAs received 90 percent (or more) of the administrative fees they would have received if full funding were available. Since 2011, however, the annual proration to the administrative fee has decreased, reaching a low in 2013 of 69 percent as a result of Federal budget sequestration but rising to 79.8 percent in 2014.

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[2] A cost driver is a factor that triggers a change in the cost of an activity.

[3] The 2003 reduction is in Public Law 108–7, Consolidated Appropriations Resolution, 2003, Div. K, Tit. II, numbered paragraph (5) under the Public and Indian Housing—Housing Certificate Fund account section, as well as the annual administrative fee notice in the Register, 68 FR 24078 (May 6, 2003).

Although the HCV program as a whole has grown in the past 5 years, PHAs have generally received less funding for the administration of the program. Indeed, because of funding challenges, some PHAs have opted to give up their HCV programs—requesting HUD to transfer their programs to other entities. Since 2010, more than 160 PHAs have transferred their HCV programs to other entities.

In an environment with constrained funding, it is critical for HUD to have accurate, reliable information on how much it costs to administer a well-run HCV program. HUD therefore initiated, and Congress funded, an HCV Administrative Fee Study to ascertain how much it costs a PHA to run a high-performing and efficient HCV program, identify the main factors that account for the variation in administrative costs among PHAs, and develop a new administrative fee formula for reimbursing PHAs based on the study's findings.

### HCV Administrative Fee Study

The HCV Program Administrative Fee Study Draft Final Report was published on April 8, 2015 and the HCV Program Administrative Fee Study Final Report[4] was published on August 21, 2015.[5] The study: (1) Identified a diverse sample of 60 PHAs administering high performing and efficient HCV programs to participate in the study; (2) tested different direct time measurement methods; (3) collected detailed direct time measurement data using Random Moment Sampling (RMS) via smartphones; and (4) captured all costs incurred by the HCV program (labor, non-labor, direct, indirect, overhead costs) over an 18 month period at the 60 sample PHAs. A large and active expert and industry technical review group (EITRG)—consisting of representatives from the major affordable housing industry groups, executive directors and HCV program directors from high-performing PHAs, affordable housing industry technical assistance providers, housing researchers, and industrial engineers—reviewed the study design and results at separate stages in the study and provided invaluable feedback.

In accordance with the guidelines for "peer review" of "influential and highly influential scientific information" in the Information Quality Bulletin of the Office of Management and Budget (OMB), dated December 16, 2004, and published in the **Federal Register** on January 14, 2005, 70 FR 2664–2677, HUD's Office of Policy Development and Research asked two industrial engineers who are experts in time-and-motion research (Dr. Nicola Shaw and Dr. Kai Zheng) and one economist who is an expert in assisted housing (Dr. Edgar Olsen) to review the HCV Program Administrative Fee Study Draft Final Report. The results of the peer review are posted on the study's Web site at *http://www.huduser.gov/portal/hcvfeestudy.html.*

The study represents the most rigorous and thorough examination of the cost of administering a high-performing and efficient HCV program conducted to date, and provides the basis for calculating a fee formula based on actual PHA costs across a diverse sample of PHAs. Both the study's recommended formula and the formula proposed by this regulation are based on variables with better theoretical and statistical connection to the administrative costs of the HCV program than the 1993 or 1994 FMRs.

The study analyzed over 50 potential cost variables. The study's recommended administrative fee formula was based on a regression model using the following seven variables:

(1) *Program size:* The number of vouchers under lease, including port-ins and excluding port-outs. PHAs receive an additional fee per voucher if they have fewer than 750 vouchers under lease, with the most additional fee received by PHAs with 250 or fewer vouchers under lease.[6]

(2) *Wage index:* The ratio of the statewide average metropolitan or nonmetropolitan wage rate for local government workers in the PHA's state, to the national average wage rate for local government workers.[7]

(3) *Health insurance cost index:* The ratio of the cost (to employers) of health insurance in the PHA's state, to the national average cost (to employers) of health insurance.

(4) *Percent of households with earned income:* The percentage of HCV households served by the PHA that has income from wages.

(5) *New admissions rate:* The number of households admitted to the PHA's HCV program (as a result of turnover or new allocations of vouchers) as a percentage of the total households served.

(6) *Small area rent ratio:* A measure of how the average rents in the areas where a PHA's voucher participants live compare with the average rents for the overall area.

(7) *60 miles:* The percentage of HCV households served by the PHA that live more than 60 miles away from the PHA's headquarters.

Since the recommended formula predicts the per-unit costs for administering the program from July 1, 2013, through June 30, 2014, the formula must be adjusted to reflect changes in the cost of goods and services over time. That is, the formula needs a factor to account for inflation. The study recommends a blended inflation rate that distinguishes between (i) change in wage rates over time; (ii) change in health insurance costs over time; and (iii) change in non-labor costs over time.

The study's recommended formula would also change the method by which PHAs are reimbursed for the administrative costs associated with tenant portability. This proposed rule incorporates the study's recommendation on administrative fees for portability, which is described in detail later in this preamble.

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[4] The main differences between the draft and the final report involve slight changes to the coefficients because of a more accurate way of calculating the new admissions rate. This affects chapters 6 and 7 and is explained in footnote 90 in the final report (chapter 6, pg. 118). Other changes in the final report involved clarifications to table notes, copy edits, corrections of typographical errors, and adding the executive summary to the final report. The formula tools and spreadsheets that were posted on the study Web site (*http://www.huduser.org/portal/hcvfeestudy.html*) and the Solicitation of Comment reflected the updated coefficients.

[5] The study can be found at: *http://www.huduser.org/portal/hcvfeestudy.html.* In addition to the study, HUD comprehensively described the study's methodology and findings in the Solicitation of Comment discussed below.

[6] The study found that PHAs with 500 or fewer vouchers under lease had significantly higher per unit costs. In a fee formula, a binary variable that separates PHAs into two groups—one with 500 vouchers or fewer and one with more than 500 vouchers—would result in a cliff effect; that is, a substantial drop-off in fees after a PHA exceeds 500 vouchers under lease. To avoid the cliff effect, the formula provides additional fees to PHAs with fewer than 750 vouchers under lease on a sliding scale. The study found that the 250-to-750 range minimized the cliff effect without weakening the formula's accuracy in predicting costs.

[7] If the PHA's headquarters is located in a metropolitan county, the PHA is assigned the average local government wage for the metropolitan counties in the PHA's state. If the PHA's headquarters is in a nonmetropolitan county, the PHA is assigned the average local government wage for the nonmetropolitan counties in the PHA's state.

The study's recommended formula accurately predicts 63 percent of the variance in agency costs among the 60 PHAs studied. Given the complexity of the HCV program and the heterogeneity of the United States, this is an extremely high predictive value. The current formula only accounts for 33 percent of the variance in agency costs, so the study's formula represents a nearly 100 percent increase over the current formula in terms of its predictive value. While 63 percent is a very high predictive value, the study notes that there are costs that may not be accounted for in the proposed formula. An example of this is the up-front time to establish a HUD-Veterans Affairs Supportive Housing (VASH) program. Moreover, the study notes that program rules may change which could impact costs. For example, PHAs may adopt streamlining activities that result in fewer inspections and may result in lower administrative costs. Finally, the study identifies four areas for further analysis and consideration in developing the administrative fee formula: (i) Administering the HUD–VASH program; (ii) serving homeless households; (iii) providing PHAs performance incentives; and (iv) expanding housing opportunities.

Solicitation of Comment on HCV Administrative Fee Study

On June 26, 2015, at 80 FR 36382, HUD published a **Federal Register** notice seeking public comment on the variables identified by the HCV Administrative Fee Study as impacting administrative fee costs and on how HUD might use the study findings to develop a new administrative fee formula (Solicitation of Comment Notice). In particular, HUD requested comment on the 7 formula factors that comprised the study's recommended formula (wages, program size, health insurance cost index, percent of households with earned income, new admissions rate, small area rent ratio, and percent of households more than 60 miles from the PHA's headquarters); the inflation factor used to adjust the administrative fee formula; proposed administrative fee floors; maximum administrative fee funding; adjusting administrative fees for future program changes; and reducing funding disruptions for the relatively small number of PHAs that would likely have a decrease in funding under the study's proposed formula. In addition, HUD sought comment on modifications to the formula or supplemental fees to support PHAs in addressing program priorities, strategic goals, and policy objectives at the local and national level (as discussed in section 7.7 of the HCV Administrative Fee Study).

## III. HUD's Proposed New Administrative Fee

*Significant modifications to the study's recommended formula variables in HUD's proposed formula.* In response to comments received on the June 26, 2015, notice, HUD made three significant modifications to the study's recommended fee formula in developing HUD's proposed administrative fee formula. These three modifications affect the proposed formula by changing variables as follows:

- First, for PHAs in metropolitan areas, the wage index formula variable is based on the average local government wage rate for the PHA's metropolitan Core Based Statistical Area (CBSA), rather than the average local government wage rate for all of the metropolitan counties in the PHA's state.
- Second, the health insurance cost index formula variable has been replaced with a new "benefit load" formula variable, which is designed to more accurately reflect the variation in costs for all benefits that are paid on behalf of HCV employees, as opposed to using health insurance costs as a proxy to account for the variation in all benefit costs.
- Third, the small area rent ratio (SARR) variable has been removed from the proposed formula. HUD is sensitive to the concerns that the SARR may be more of an artifact of where PHA jurisdictions are located than an indicator of the level of additional effort to expand housing opportunities or recruit landlords in what may be more expensive rental markets. HUD was also concerned about the instability of the variable when tested with other combinations of variables in different regression models.

HUD received 95 comments in response to the June 26, 2015, notice. The public comments can be found at: *http://www.regulations.gov/#!docketDetail;D=HUD-2015-0058.* HUD addresses significant issues raised by the commenters, explains the bases for the changes that HUD made to its proposed administrative fee formula that differ from the study's recommended administrative fee formula, and seeks specific comment on several issues in Section IV of this preamble.

## IV. Factors Considered by HUD in Development of Its Proposed Administrative Fee Formula

The administrative fee formula proposed by this rule is largely based on the recommended formula developed as part of the HCV Administrative Fee Study. The formula is created by a regression model which explains the relationship between the actual administrative costs and 6 cost drivers for the 60 study PHAs. Each of the 6 cost drivers (also known as formula variables) has both a theoretical and empirical basis for affecting administrative costs across all PHAs. The formula variables are discussed below, as is the rationale for eliminating the small area rent ratio (SARR) variable that was included in the study's recommended formula but dropped from the proposed formula set forth by this rule.

The following provides an overview of how HUD's new proposed administrative fee formula was developed.

*Objective of the formula:* One of the main objectives of the HCV Administrative Fee Study was to develop a fee formula that would more accurately account for the variation in the cost of administration among PHAs. As noted earlier, the current formula is based on an assumption that the differences in FMRs correlate with the differences in wage rates and other variables that account for the variation in PHA administrative costs. Unlike the current formula, the study's recommended formula is based on an analysis of the actual relationship between specific cost drivers and the PHAs' administrative costs. That analysis was used to appropriately incorporate the impact of the most significant cost drivers into the calculation of the administrative fee for individual PHAs.

*Measuring actual administrative costs per unit months leased (UML):* The first step in developing the administrative fee formula proposed in this rule was to measure the actual administrative costs per UML at each of the 60 PHAs in the study. The study used RMS time measurement and cost data collection to capture all of the costs associated with operating a high performing and efficient HCV program at each of the 60 PHAs. The study measured a total annual HCV administrative cost for each PHA, which included labor, non-labor, and overhead costs. Because the PHAs in the sample ranged in size from just over 100 vouchers to more than 45,000 vouchers, the study divided each PHA's total yearly administrative costs by its number of UMLs over the year to arrive at an *administrative cost per UML* for each PHA in the study. The costs were collected for the year 2013, and the administrative cost per UML ranged from $42.06 to $108.87 across the 60 PHAs.

*Assessing the wide variation in UML administrative costs:* After measuring the actual administrative costs for each PHA, the next step was to identify the PHA, program, and market characteristics that help explain the wide variation in UML administrative costs observed across the 60 PHAs. The PHA, program, and market characteristics are the factors that affect or drive each PHA's administrative costs, referred to in the study as *cost drivers.* The study team, in consultation with HUD and the expert and industry technical review group (EITRG), identified and tested more than 50 potential cost drivers that could theoretically be expected to affect HCV administrative costs.

*Use of ordinary least squares (OLS) to determine potential cost drivers that have most impact on HCV administrative costs:* The study team used a statistical method known as OLS multivariate regression to determine which of the 50 potential cost drivers had the most impact on HCV administrative costs and which factors, in combination with one another, could best explain or predict the administrative costs per UML measured for the 60 PHAs in the study. OLS multivariate regression finds the best linear fit to the data when the analyst knows that two or more variables affect the outcome of interest, which is clearly the case when the outcome is UML administrative cost. OLS regressions have a *dependent variable* that the model is trying to explain (in this case, UML administrative cost) and the *independent variables* (also referred to as "explanatory" variables), such as PHA employee wages, program size, and other cost drivers. In addition to determining the best linear relationship between the dependent variable and the independent variables of the sample PHAs, the regression model then allows the statistician to better predict the value of the dependent variable for PHAs outside of the sample, based on the values of the independent variables for those PHAs.

*The significance of a coefficient:* In a regression model, the independent variables, or cost drivers, are *coefficients* in the model. A coefficient can either have a positive or a negative value and can have different levels of statistical significance. In the study's model, a positive coefficient means that PHAs with higher values for the tested variable also have higher UML administrative costs. A negative coefficient means that PHAs with higher values for the tested variable have lower UML administrative costs.

In addition to assigning each coefficient a positive or negative value, the regression model calculates the statistical significance of the coefficient or variable. The study's regression model identified variables as statistically significant at the 1 percent, 5 percent, and 10 percent level, or not statistically significant. The percent level indicates the degree of confidence that the analyst and the public can have in the variable's relationship to the UML administrative cost. In empirical studies, all statistical relationships are measured with random error introduced by sampling only a random portion of the population instead of the whole population.

Statisticians have developed yardsticks for the risk of error associated with the measurement of any particular relationship. If the variable is statistically significant at the 1 percent level, that means there is a less than 1 percent probability that the true relationship between that variable and UML cost is zero. For example, if the coefficient is positive, that means that the analyst and the public can be at least 99 percent sure that the variable is consistently associated with a higher UML cost. If a variable is statistically significant at the 10 percent level, there is a less than 10 percent probability that the variable and the administrative cost per unit month relationship have a true correlation of zero, so the analyst would have at least 90 percent confidence that the variable was consistently associated with higher cost. Both variables are statistically significant, but the analyst and the public will have more confidence in the measurement if it is statistically significant at the 1 percent level. Variables that are not statistically significant may still affect UML administrative cost, but the analyst and the public will not be able to make confident and objective assertions about their impact.

As noted above, the dependent variable the administrative fee formula is predicting through the OLS regression is the UML administrative cost. The actual administrative cost per UML was determined for the 60 study PHAs through the measurement of staff time spent on HCV administration using random moment sampling (RMS) and cost data collection. The OLS regression tested the relationship between the actual UML administrative costs and various combinations of independent variables to determine how much each cost driver affected the administrative costs for the sample PHAs, holding the other factors constant, and the consistency of the relationship between the proposed cost driver and the UML cost when the other factors are controlled for.

*The process for testing cost drivers:* The study team started with a simple regression model with two cost drivers: Program size and local wage rates. Each of these cost drivers was found to be highly significant. The team then added each of the remaining potential cost drivers one at a time to test their significance once program size and local wage rates were taken into account. For example, one potential cost driver was the rate of new admissions to the HCV program, which the study team and EITRG reasoned could impact a PHA's administrative costs. Numerous combinations of variables were tested to find the set of factors that best explained the observed variation in UML administrative cost for the 60 study PHAs. Readers are encouraged to read chapters 6 and 7 of the HCV Program Administrative Fee Study Final Report for a complete list and description of all the potential cost drivers that were tested, the results of those tests, and the rationale through which the study team decided on the cost factors that were ultimately included in the study's recommended formula.

The cost drivers that were identified as the best explanatory variables for the fee formula under this proposed rule are program size, wage index, benefit load, percent of households with earned income, new admissions rate, and percent of households residing more than 60 miles from the PHA's headquarters. The OLS regression uses the actual values of these explanatory variables for each PHA to predict the PHA's administrative cost per UML, which becomes the ongoing administrative fee for the PHA under the fee formula.

*Measuring regression by R-squared value:* A key explanatory measure of a regression is the R-squared value. The R-squared of a regression is the percentage of the variance in the dependent variable (in this case UML administrative cost) that is accounted for by the model. The R-squared for the regression model used to develop the proposed formula under this rule is 0.62, which means that the combination of the six independent variables explains 62 percent of the observed variation in UML administrative cost across the 60 PHAs. Although the predictive value of the study's recommended formula was slightly higher (63 percent), HUD believes that the benefits of the changes made as a result of the comments received in response to the Solicitation of Comment Notice outweigh the small decrease in the R-squared. The predictive value of the administrative fee formula in this proposed rule is still a much higher R-squared than the study expected, given the wide variety of factors that could potentially affect HCV administrative costs. (As discussed earlier, the current FMR-based formula only accounts for 33 percent of the variation of costs.)

*Formula calculation for HUD's proposed rule:* The proposed ongoing administrative fee formula calculation based on the OLS regression model is as follows:

TABLE 1—BASE FEE FORMULA CALCULATION

| Formula variable | Applies to | Calculation[8] |
|---|---|---|
| Program size 1 | PHAs with 250 or fewer units | + $13.94 ($13.94 × 1). |
| Program size 2 | PHAs with 251 to 749 units | + $13.94 × [1-(units-250)/500]. |
| Program size 3 | PHAs with 750 or more units | + $0 ($13.94 × 0). |
| Wage index | All PHAs | + $31.53 × PHA's wage index. |
| Benefit load | All PHAs | + $0.78 × PHA's benefit load. |
| Percent of households with earned income. | All PHAs | + $1.02 × % of PHA's households with earned income. |
| New admissions rate | All PHAs | + $0.15 × % of PHA's households that are new admissions. |
| Percent of households more than 60 miles from PHA HQ. | All PHAs | + $0.83 × % of PHA's households living more than 60 miles from PHA HQ. |
| Intercept[9] | All PHAs | −$33.47. |
| Fee | Per Unit Month Leased (UML) | = $. |

Each variable in the administrative fee formula has a monetary value that is equal to the positive coefficient estimate determined by the regression model. The formula coefficient is then multiplied by the individual PHA's variable value.[10] For example, assume that the PHA had a wage index of 1.21. The dollar value of the wage index for this PHA is calculated by multiplying the wage index coefficient of $31.53 by the PHA's variable value of 1.21, which equals $38.15. Another example is the percentage of households that have earned income. For each 1 percent of the PHA's assisted families that have earned income, the PHA receives an additional $1.02 in its base administrative fee amount (which is paid for all vouchers under lease, not just those where the family has earned income). The dollar amounts for all six formula variables for the PHA are then added together (and adjusted by the intercept) to determine the PHA's base fee per UML.

*Application of an inflation factor:* An inflation factor is applied to the PHA's fee per UML to adjust for the increase in costs since 2013, the year for which the study determined the administrative costs upon which the formula model is based.

The PHA receives the administrative fee from HUD for each unit month leased for all of the vouchers it is administering, including any vouchers under lease that the PHA is administering as a receiving PHA under the portability billing procedures. However, the PHA does not receive the administrative fee for any of its vouchers administered by other PHAs under the portability procedures billing option. Instead the PHA will receive a separate portability administrative fee for those ported-out vouchers directly from HUD that is equal to 20 percent of the PHA's ongoing administrative fee. (Under this proposed rule, PHAs no longer bill for administrative fees under the portability procedures.)

On an annual basis, the administrative fee is re-calculated by HUD based on the updated variable values for the individual PHA and adjusted for inflation.

## V. Public Comment Received in Response to Solicitation of Comment Notice

This section highlights the significant issues raised by the commenters and HUD's response to these issues. This section also solicits comment on certain specific issues.

Comments on Program Size

*Program Size.* The study's cost regression models consistently found that programs with more than 500 vouchers under lease had significantly lower per unit costs than programs with 500 vouchers or fewer. In order to avoid a cliff effect—where a PHA administering 499 vouchers would receive a significantly higher fee than a PHA administering 501 vouchers—the proposed formula gradually reduces the amount of the fee for different voucher program sizes rather than sharply reducing the fee when the voucher program size reaches 501 units under lease.

*Variable Calculation:* The program size variable provides an amount equal to $13.94 to the UML administrative fee if the PHA has 250 or fewer vouchers. PHAs with 251 vouchers to 749 vouchers under lease receive a percentage of that $13.94 depending on the number of vouchers (the fewer vouchers under lease, the greater the amount the PHA would receive under this cost variable). The UML administrative fee amount for PHAs with 750 or more vouchers under lease would not be adjusted to account for added costs related to program size.

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[8] The coefficients in this table reflect the proposed rule model, which, as described above, is a modified version of the model recommended by the HCV Program Administrative Fee Study. The variables and coefficients in the proposed fee model are similar to but not the same as those in the study model.

[9] The intercept for the model is −33.47. The intercept in a linear regression is simply the point at which the regression line crosses the y axis (the point at which the value of x—the independent variable—is 0). The intercept, along with the slope of the line, determines the value of dependent variable (in our case administrative fee per UML) based on the values of the independent variables. In a regression model, the slope of the line and the relationship between the x and y variables may result in a y-intercept that is not meaningful in a practical sense. For instance, it is not possible for all of the formula variables to be zero for a PHA, so the intercept is meaningless in terms of an actual administrative fee value, and in reality there would never be such a thing as a negative administrative fee. Rather, it is simply an adjustment to the fee calculation that is necessary for the fee amounts to reflect the predicted administrative cost per UML as determined by the formula variables through the regression.

[10] Both the formula coefficients and the PHA variable values are rounded to two decimal places before the formula calculations take place. The inflation factor is rounded to four decimal places.

Vouchers under lease include all port-in vouchers that are administered by the PHA but exclude the PHA's port-out vouchers administered by other PHAs.

The UML administrative fee for the PHA is recalculated every year. The program size variable value for the PHA would be updated based on the most recent twelve months of data available from HUD's Voucher Management System (VMS) for unit months under lease (plus port-ins minus port-outs) at the time the new administrative fee is calculated.

*Dollar value of the program size adjusted for very small PHAs:* In response to the Solicitation of Comment, commenters raised questions about the dollar value of the program size adjustment for very small PHAs. Commenters stated that the dollar value of the program size variable was proportionately very large in terms of the average administrative fee per UML of $70 under the proposed formula, and that, from a budgetary and public policy standpoint, it would be more sensible to expect local communities that wish to maintain very small, autonomous programs to continue to contribute their own resources to cover the additional administrative cost, instead of shifting all of that cost to the program and the Federal taxpayer. Concerns were raised that such a large dollar adjustment for small programs would discourage small PHAs from pursuing opportunities to increase administrative efficiencies through voluntary consortia or consolidation efforts. Another comment suggested that the formula only make the program size adjustment for small PHAs that are geographically isolated and represent the only existing option for program administration in the region or geographic area where they have jurisdiction.

*Gradual reduction and phase-out of fee adjustments as program size increases:* Other comments focused on the formula's approach to gradually reducing and then phasing out the fee adjustment as the program size increases from 250 to 750 leased vouchers. For example, it was noted that this approach did not recognize that an increase in program size within the 250 to 750 leased unit range could actually increase, not decrease, administrative costs. An increase in size might result in a PHA having to hire more staff to handle the additional case load or to create a HCV program manager position, both of which would increase the PHA's administrative costs. Another comment questioned why the reduction in the fee adjustment would start at 250 units if the study determined that the correlation to lower costs was based on programs with more than 500 units.

*Provide size adjustments for greater number of program size thresholds:* Some comments encouraged HUD to provide size adjustments for a greater number of program size thresholds (*e.g.,* 1–500 vouchers, 501–1,000 vouchers, 1,001–2,500 vouchers, etc.) as opposed to the straight proportional decrease proposed by the study. For example, a PHA with 750 vouchers would not be able to recognize the same economies of scale as a PHA with 10,000 vouchers but the study's recommended formula does not make any type of adjustment for program size beyond 750 vouchers.

HUD Response

HUD has not changed the program size variable from the approach recommended by the study for the administrative fee formula that would be implemented in accordance with this proposed rule. The study identified HCV program size as one of the most significant drivers of administrative costs and HUD believes that on that basis alone it merits inclusion in the formula at the proposed rule stage. For example, when just the program size of 500 vouchers or fewer under lease variable and the wage index variable were combined, that base model had an R-squared value of 0.347, meaning that it explained 34.7 percent of the observed variation in cost among the 60 PHAs, which is greater than the current formula's predictive value. Also, the reality is that most PHAs that administer the voucher program are relatively small. For example, in CY 2014, 1,521 PHAs (68 percent of HCV administering PHAs) had 500 or fewer vouchers under lease (including port-ins and excluding port-outs).[11] The number of PHAs that had 250 or fewer vouchers under lease was 1,131 (50 percent of HCV administering PHAs). That said, HUD understands the concerns that the program size variable may direct limited administrative fee resources to small PHAs at the expense of more efficiently sized programs.

*Specific solicitation of comment #1:*

1a. HUD specifically seeks comment on whether HUD should consider constraining the coefficient estimate for program size.

The program size variable is one of the most powerful variables in the formula and consequently the resulting fees favor small PHAs. Constraining the coefficient estimate in the regression model would reduce the dollar value of the program size adjustment in the formula calculation and provide greater weight to the other cost variables while still providing small programs with an adjustment in the base fee amount. For example, a fee formula could reduce the program size coefficient of $13.94 by 10, 20, or 30 percent.

1b. Alternatively, HUD seeks comment on whether the proposed rule should reduce the impact of the formula's program size adjustment for only certain categories of small PHAs, such as small PHAs that have overlapping jurisdictions with other PHAs that administer the HCV program, as opposed to constraining the size coefficient estimate in the regression model. For example, the formula could impose limits or restrictions on the percentage or amount by which the covered PHA's fee could increase in response to the comment that communities that wish to maintain very small, more administratively expensive independent programs should continue to bear some of the responsibility for the financial cost of that decision under the new formula. HUD further seeks comment on the criteria that should be used to establish such a category of PHAs, as well as the methodology that would be used to adjust the fee.

*Specific solicitation of comment #2:*

2a. With regard to the unit size threshold based on 500 leased units and the approach of gradually reducing the dollar amount of the cost variable as program size increases between 250 and 750 units, HUD believes that gradual approach is preferable to a binary model where a PHA would see a significant change in the per unit fee as the result of leasing or not leasing a handful of vouchers. The study determined that 500 units appeared to be the strongest threshold to use in terms of program size.

However, HUD specifically seeks comment on whether to increase the unit size threshold and the corresponding adjustment range from 500 leased units (250 to 750 unit range) to 750 leased units (500 to 1,000 unit range) or 1,000 leased units (750 to 1,250 unit range). In keeping with the same methodology as the formula, if the unit size threshold was 750 units instead of 500 units, the dollar amount for the size variable could start to decrease at 500 units and would phase out at 1,000 units (which would address the concern raised that there should be no increase in the program size adjustment for any program size below 500 units). Alternatively, if the unit size threshold was 1,000 units, the dollar amount for the program size variable could start to decrease at 750 units, and would phase out at 1,250 units. Another possible approach on which HUD seeks comment would be to narrow the range over which the adjustment is made, for example from 400 to 600 units or from 500 to 750 units. This would help address the concern that there should be no increase in the program size adjustment for any program size below 500 units while still providing protection against a cliff effect.

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[11] The PHA counts and percentages in this sentence and the following sentence pertain to non-MTW agencies.

The study tested different size categories of vouchers under lease[12] as well as a continuous variable for the number of vouchers under lease. The coefficients on the other size variables were not statistically significant, and the continuous variable measure of size was not significant, so the study results were unable to identify where an increase in vouchers might result in an increase in UML administrative costs.

2b. HUD specifically seeks comment on whether the program size variable value for the PHA should be updated based on the average vouchers under lease for the most recent 12 months of data available at the time the new administrative fee is calculated, as is being proposed, or for a longer period of time, such as the most recent 24 or 36 months. Using a 2- or 3-year average for the program size variable would lessen the short-term impact of a reduction in per unit fee associated with a major increase in program size, as might happen if a PHA received a large allocation of new vouchers or absorbed another PHA's program.

*Specific solicitation of comment #3:* In response to concerns that the size variable would discourage creating greater efficiencies through consortia[13] or consolidation, HUD specifically seeks comment on this issue. For example, the formula could apply a different program size value for a certain period (*e.g.,* first three years following the consolidation or formation of the consortium) than the standard calculation under the proposed administrative fee formula. This interim program size value could be calculated based on the number of vouchers under lease (prior to the consolidation or formation the consortium) for the PHA that had the greatest number of vouchers under lease at that time of the consolidation or formation of the consortium. Under this approach, the formula would generate a higher per unit fee for the time period in question or could be gradually phased out. This adjustment would also help to defray start-up costs and other transitional expenses of consolidating programs or forming the consortia.

HUD is seeking comment not only on this option, but is also interested in any other ideas on how the size variable could be adjusted with respect to consortia or consolidated programs.

*Specific solicitation of comment #4:* HUD also specifically seeks comment on adopting such a policy for a small PHA when another PHA has overlapping jurisdiction.

### Comments on Wage Index

*Wage Index.* The study's analysis of cost drivers showed that wage index—a geographic index of local government wages constructed from data collected through the Bureau of Labor Statistics Quarterly Census of Employment and Wages (QCEW)—is a very strong driver of per unit administrative costs. PHAs with higher local wages relative to the national average have higher per unit administrative costs and PHAs with lower local wages relative to the national average have lower per unit administrative costs. This is consistent with the theory that PHA employees are paid at different wage rates based in part on the prevailing wage in the part of the country in which the PHA is located. As a result, PHAs operating in areas with higher than average prevailing wage rates will have higher administrative costs.

*Variable Calculation:* The fee calculation for the wage index variable is $31.53 multiplied by the PHA's wage index ratio. The possible values for the wage index variable are limited to the highest and lowest values for the 60 PHAs in the study sample, which are 1.46 and 0.64 respectively. (The reasons for limiting the value of the variable to the maximum and minimum values observed in the study sample are discussed further below.)

For PHAs located in metropolitan areas, the wage index is the local government wage for the metropolitan Core Based Statistical Area (CBSA) in which the PHA headquarters is located divided by the national average local government wage.[14] If the local government wage for a metropolitan CBSA is missing or unavailable, the wage index is the average local government wage for the counties with available data in the metropolitan CBSA in which the PHA headquarters is located divided by the national local government wage. If neither the CBSA data nor the county data is available, the wage index is the State average local government wage for metropolitan areas divided by the national average local government wage.

For PHAs located in micropolitan areas, if the local government wage for a micropolitan CBSA is missing or unavailable, the wage index is the average local government wage for the counties with available data in the micropolitan CBSA in which the PHA headquarters is located divided by the national local government wage. If the county data are not available, the wage index is the State average local government wage for non-metropolitan areas (including micropolitan areas) divided by the national average local government wage.

For all other PHAs, the wage index is the state's average local government wage for non-metropolitan areas (including micropolitan areas) divided by the national average local government wage.[15] As part of the annual adjustment of the administrative fee, the wage index for the PHA is recalculated each year using the most recent annual data available from the QCEW.

The study's recommended formula used a wage index that was based on the average local government wage for metropolitan areas of the State and the average local government wage for non-metropolitan areas of the state. If the PHA headquarters was in a metropolitan county, the PHA was designated as a metropolitan PHA, and if the PHA headquarters was in a non-metropolitan county, the PHA was designated a non-metropolitan PHA. For each state, the study team calculated the average government wage for metropolitan counties and the average government wage for non-metropolitan counties. For a metropolitan PHA, the wage index was the state's average government wage for metropolitan counties divided by the national average wage rate. For a non-metropolitan PHA, the wage index was the state's average government wage for non-metropolitan counties divided by the national average wage rate.

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[12] Program with 500 or fewer vouchers; program with 501 to 5,249 vouchers, program with 5,250 to 9,999 vouchers; program with 10,000 plus vouchers.

[13] On July 11, 2014, HUD published a proposed rule on "Streamlining Requirements Applicable to Formation of Consortia by Public Housing" (79 FR 40019) proposing to allow PHAs to form single-ACC consortia. Under the proposed rule, PHAs that form a single-ACC consortium would receive administrative fees based on the total vouchers under lease for the consortium.

[14] Core Based Statistical Area (CBSA) is a collective term for metropolitan and micropolitan statistical areas (metro and micro areas). A metro area contains a core urban area of 50,000 or more population, and a micro area contains an urban core of at least 10,000 (but less than 50,000) population. Each metro or micro area consists of one or more counties and includes the counties containing the core urban area, as well as any adjacent counties that have a high degree of social and economic integration (as measured by commuting to work) with the urban core. For more information, see *http://www.census.gov/population/metro/*.

[15] The QCEW does not publish data on local government wages for the U.S. Virgin Islands, Guam, and the Northern Mariana Islands. PHAs in these places are assigned the national average local government wage, resulting in a wage index value of 1.

Several commenters expressed concern that the use of a State average is unfair to PHAs in high-cost, high-wage metropolitan areas. The commenters believed that relying on the State average to account for wage variations among individual PHAs significantly understates the costs of salaries in higher cost metropolitan areas while overstating the cost of wages in lower cost metro areas of the same state.

HUD Response

The failure of the statewide average wage index to account for a potentially wide range of local government wages within a State is a significant concern. As an alternative approach for the formula under this proposed rule, HUD considered two alternatives to the study's QCEW wage index model. One model used county level data and substituted the State metro average or non-metro average, as applicable, for any county that was missing data. The other model used CBSA-level data for metropolitan areas and micropolitan areas, where available, and the State non-metropolitan average for other areas. The CBSA-level model is preferable to the county level model in that it explains a higher share of the observed variation in PHA costs and better approximates the labor markets in which PHAs are operating. HUD has adjusted the wage index formula variable accordingly for the fee formula that would be implemented under this proposed rule by using the CBSA-level data, where available, for PHAs in metropolitan and micropolitan areas, as described above.

Comments on Benefit Load (Health Insurance Cost Index in the Study's Recommended Formula)

*Benefit Load.* The benefits provided to HCV staff are an important component of labor costs and may vary differently from the local wage rates captured by the wage index variable. The benefit load variable replaces the Health Insurance Cost index in the study formula. The reason for the change is discussed in detail in the comment section below.

*Variable Calculation:* Using the information that PHAs report in the Financial Data System (FDS), HUD created a benefit load for each state. This State benefit load is calculated in the following manner. For each state, the total benefits paid by PHAs in the State for HCV employees for the most recent three years is divided by the total salaries paid by PHAs in the State for HCV employees for the same three years.[16] The State benefit load is the average benefit load for all the PHAs in the state. The fee calculation for the benefit load variable is $0.78 multiplied by the PHA's State benefit load. The possible values for the benefit load variable are limited to the highest and lowest values for the 60 PHAs in the study sample, which are 60.48 and 22.56 respectively.

As part of the annual adjustment of the administrative fee, the State benefit load for the PHA would be recalculated each year using the most recent three years of data available for all PHAs from the FDS.

As noted earlier, the study's recommended formula did not include this variable. The study's recommended formula addressed the variation in benefits costs through the Health Insurance Cost Index variable.

Before discussing the comments on this indicator, some background on how the study arrived at the Health Insurance Cost Index would be helpful. The study team originally tested two different approaches to addressing the variation in benefits costs. In both cases the study team created an index of benefits costs. The first index was based on the Bureau of Labor Statistics Employer Cost for Employee Compensation (ECEC) survey. This survey measures employer costs for wages, salaries, and employee benefits for nonfarm private and State and local government workers. Unfortunately, estimates of benefits costs were not available other than at the national level for State and local government workers. As a result, the total benefits cost index the study team created for each PHA (the total benefits cost for the PHA's census division divided by the average total benefits cost for nation as a whole) under this approach was based on private industry workers, not State and local government employees. Furthermore, the estimates of benefit costs for private industry workers were only available at a census region and division level, which resulted in a benefits index based on a relatively broad geographic area.

The second approach created a health insurance cost index based on the Department of Health and Human Services' Medical Expenditure Panel Survey (MEPS), which provides state-level data on the health insurance costs, but unfortunately also of private employers. The health insurance cost index was created by first subtracting the average total employee contribution from the average employee-plus-one premium for each State in order to develop a measure of employer health insurance cost. The study team then averaged the employer health insurance cost across the states to produce a national average. The health insurance cost index for each State is calculated by dividing each state's employer health insurance cost by that national average. The PHA was assigned the health insurance cost index that corresponded to the State in which it is located.

Both of the study's approaches had positive coefficients in the combined cost driver model (meaning that higher local benefits costs are associated with higher per unit administrative costs) but neither was statistically significant. The study ultimately chose to include the MEPS-based model for benefits costs for the health insurance cost index in the proposed formula as the better proxy. The study recommended inclusion of the health insurance cost variable in the formula, despite its lack of statistical significance, in recognition of the importance of addressing the variation in benefits costs among PHAs.

The Solicitation of Comment Notice asked for comments on whether health insurance costs are a good proxy for the benefits costs facing PHAs and if the variable, given its weak statistical significance, should be included as part of the formula under this proposed rule.

Comments were generally supportive of including a formula variable that addressed the variation in benefits costs. However, concerns were expressed that an index based on the statewide average of health insurance costs does not adequately represent the full range (and consequently the full variation) of benefits costs that PHAs incur. Commenters mentioned the cost of pensions as a prime example of a major expense that could vary by PHA and that is not accounted for in the study's recommended formula. Commenters encouraged HUD to find a data point that would more accurately capture variation in the costs of all benefits, as opposed to solely relying on a health insurance cost index.

HUD Response

As noted earlier in this preamble, HUD has replaced the health insurance cost index with a new variable designed to more directly address the variation in total benefits costs for PHAs. Using the information that PHAs report in the

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[16] In calculating the benefit load percentage, only data from approved submissions were used. When available, the approved audited data were used. Approved unaudited data were used for cases where the audited submission was not approved or submitted yet or the PHA was not audited.

FDS, HUD created a new "benefit load" index for each state.

The benefit load is calculated in the following manner. For the most recent three years of data available in FDS, the sum of the total benefits paid to HCV employees is divided by the sum of the total salaries paid to HCV employees from the PHA's FDS submission. The total benefits cost comes from line items on the FDS that capture PHA contributions to employee benefit plans such as pension, retirement, and health and welfare plans. In addition, the included line items record administrative expenses paid to the State or other public agency in connection with a retirement and other post-employment benefit plans (if such payment is required by State law), and with trustee's fees paid in connection with a private plan (if such payment is required under the plan contract).

The average benefit load for the PHAs in the State is calculated by dividing the total benefits paid to HCV employees (across all PHAs in the state) by the total salaries paid to HCV employees (across all PHAs in the state). PHAs with missing or negative benefit load were not included in this calculation. Each PHA is assigned the average benefit load for its state.

When added to the regression model, the benefit load variable has a positive coefficient (PHAs in the sample with a higher benefit load had higher per unit administrative costs) and is statistically significant. The other advantage of this approach is that it directly accounts for all benefits that would contribute to cost variations between PHAs, not just health insurance costs. In addition, it relies on data that apply exclusively to PHAs, as opposed to the ECEC or MEPS data approaches that used private sector data as a proxy.

The use of a state-wide average and a three year average in calculating the benefit load is intended to mitigate the distorting effects of year-to-year fluctuations in benefit costs. By using the State average and three years of cost data, HUD hopes that the formula will reflect the cost variation in benefits such as health care, pensions, and other retirement plans from State to state, without unduly influencing the amount of total benefits provided by individual PHAs.

*Specific solicitation of comment #5:* HUD specifically seeks comment on the new benefit load variable. Is it a better proxy for variations in benefits than the original health care cost variable or should the final rule revert to the study's original health insurance cost index? Or is there a preferable alternative to addressing the variation in benefit costs, such as reconsidering using the ECEC-model the study tested or some other approach?

## Comments on Small Area Rent Ratio

*Small Area Rent Ratio.* The study's recommended formula included the small area rent ratio variable, also referred to in the study as the SARR. The SARR variable described the extent to which HCV participants are located in neighborhoods that are harder, or easier, to serve at payment standards set within the basic range of the HUD published Fair Market Rent (FMR). The SARR was intended to capture the local housing market conditions that PHAs are working under and could also reflect outcomes associated with expanding housing opportunities.

For PHAs in metropolitan areas, the SARR was calculated as the median gross rent for the zip codes where voucher holders live, weighted by the share of voucher holders in each zip code, divided by the median gross rent for the metropolitan area. The theory behind the SARR is that having more voucher families leased in more expensive zip codes will increase administrative costs because it is more difficult for the PHA to recruit landlords and because voucher families might need more guidance and assistance in finding housing in unfamiliar neighborhoods.

For PHA in non-metropolitan areas, data on gross rents by zip code are not available. For these agencies, the SARR was calculated as the unadjusted two-bedroom FMR for the non-metropolitan counties where the PHA operates divided by the published FMR. The SARR would usually equal one for non-metro PHAs as HUD does not measure any variation in rents with these non-metropolitan counties. However, for some counties the FMR is set at the State minimum rather than the 40th percentile rent in the county. PHAs operating in these counties should have relatively lower costs in placing tenants because the HUD FMR is more generous, and the SARR was designed to adjust for that condition for those non-metro counties.

Many commenters questioned the study's assumption that the SARR would be reflective of the actual cost and effort to expand housing opportunities, or that the SARR is a legitimate proxy for the variation in administrative costs related to the challenges of leasing units in more expensive markets. For example, some comments questioned if the SARR largely benefited the wrong PHAs if the objective was to recognize and account for efforts to expand housing opportunities. Because the SARR is based on metro-area rents, PHAs operating in higher cost suburban areas would typically receive higher fees while those operating in disadvantaged urban cores would receive lower fees regardless of the agencies' respective efforts to expand housing opportunities. Commenters suggested that the SARR simply reflects the degree to which a PHA's jurisdiction and hence their participating families are housed in more expensive areas of the metropolitan area. While in some cases the zip code areas in which the families reside may be an indication of staff time and effort to expand housing opportunities, commenters noted that in other cases the SARR only reflects where the jurisdiction's rental units are concentrated or where the PHA jurisdiction happens to be located within the metro area. Furthermore, the SARR is impacted by a range of factors beyond the administrative elements and PHA effort, including the accuracy of the FMR, the PHA's available HAP, and the availability of rental housing units in high cost parts of the community. In addition, the fact that the SARR was not consistently statistically significant when tested with a variety of different variables may be cause for concern that the relationship between the SARR and administrative cost per unit is not particularly robust.

Other comments were concerned that the methodology of the SARR too closely paralleled HUD's small area FMR methodology. Commenters noted that it is premature to make any assumptions on administrative costs based by replicating the small area FMR demonstration approach into a cost variable since the demonstration is still ongoing. The comments noted HUD has yet to release its evaluation on whether the small area FMR demonstration achieved its objectives and to what extent small area FMRs resulted in additional administrative cost and complexity for the demonstration PHAs.

A number of commenters suggested that the SARR either be supplemented or replaced with add-on fees outside of the fee formula that would better incentivize or directly recognize efforts to expand housing opportunities.

## HUD Response

After careful consideration of the comments, HUD decided to remove the SARR from the formula that would be implemented in accordance with this proposed rule. HUD is sensitive to the concerns that the SARR may be more of an artifact of where PHA jurisdictions are located than an indicator of the level of additional effort to expand housing opportunities or recruit landlords in what may be more expensive rental markets. HUD was also concerned about the instability of the variable when tested with other combinations of variables in different regression models.

*Specific solicitation of comment #6.* HUD is specifically requesting comment on whether the SARR or some other indicator that would address the variation in administrative cost as it relates to locational outcomes and expanding housing opportunities should be reconsidered for inclusion in the core formula. For example, one possibility is to include a variable that measures the degree to which voucher families are not overly represented in racially or ethnically concentrated areas of poverty (R/ECAPs) compared to the distribution of rental units within the PHA jurisdiction.[17] Another possibility is to include a variable that examines the degree to which the percentage of a PHA's families that reside in areas of concentrated poverty is declining.

An additional option is to base the indicator on the number of families that initially lease in low-poverty areas or that move out of areas with high concentrations of poverty or R/ECAPs to less concentrated areas. Alternatively, HUD could base the indicator on the extent to which the overall percentage of the PHA's families residing in low-poverty areas increases, and/or the extent to which the overall percentage of the PHA's families residing in areas with high concentration of poverty or residing in R/ECAPs decreases from year to year. Both measures would take into consideration the locational outcomes of families that moved out of the of the PHA's jurisdiction under the portability procedures.

Given the challenges that determining the actual cost and effort in terms of locational outcomes posed for the study, HUD recognizes it may be very difficult to design an indicator that is statistically significant and truly reflects the cost variation for locational outcomes among the sample PHAs in the regression model. HUD seeks public comment on whether the locational outcomes indicator should nevertheless be included in the core formula if it is not found to be statistically significant, similar to the new admissions indicator, which is not significantly significant but has a strong theoretical basis. An alternative approach is to address locational outcomes through the use of supplemental fees, which would be provided in addition to the administrative fee that is based on the regression model. Additional cost factors and supplemental fees are discussed later in this preamble. HUD is specifically seeking comment on fees for locational outcomes and expanding housing opportunities (see Specific solicitation of comment #21).

Comments on Households With Earned Income

*Households with Earned Income.* This variable is the percentage of the PHA's voucher households with any income from wages. The PHA's voucher households are defined as the PHA's vouchers under lease in its jurisdiction plus any port-in vouchers under lease that the PHA is administering on behalf of other PHAs, minus its port-out vouchers that are administered by other PHAs.

*Variable calculation:* The fee calculation for the households of earned income variable is $1.02 multiplied by the most recent three year average of the percentage of the PHA's households that had earned income reported in the PIH Information Center (PIC) as of their last recertification during the measurement year. The possible values for the households with earned income variable are limited to the highest and lowest values for the 60 PHAs in the study sample, which are 56.11 and 15.58 respectively.

As part of the annual adjustment of the administrative fee, the percentage of households with earned income would be recalculated each year using the most recent three years of PHA data from PIC (or its successor program).

The study tested many different measures of the characteristics of the HCV population to see if these different family characteristics impacted administrative costs. Of all the family characteristic variables that were tested, seven were statistically significant when added to the base model of wage index and program size. Among the five variables associated with higher cost—percent of households that are family households; percent of households with three or more minors (hard-to-house families); percent of households with 6 or more members (large families); percent of households with majority of income from earnings; and percent of households with any income from earnings—the study determined that the percent of household with any income from earnings was the strongest cost driver when controlling for local wage rates and program size.

The majority of family households have earned income so there is substantial overlap between family households and households with earned income. Because of this overlap and correlation, percent of households that are family households was no longer significant when the study team attempted to put both the family and earned income variables in the same model. Therefore, the study team retained the earned income variable in the recommended formula but dropped percent of households that are family households.

In addition to the extra work required to verify wage income, the study suggested that another reason why the percent of wage earning households is a significant cost driver is because family households (highly-correlated with wage earning households) are substantially more likely to receive interim reexaminations than non-family households and are more likely to change units. Interim reexaminations and move processing represent extra work for the PHA, adding to administrative costs.

Many comments raised concerns about this particular formula variable. Some comments stated that the study's findings did not match the commenters' experiences at their PHAs. These comments expressed the view that assisting elderly and disabled families was just as administratively costly as assisting families with earnings. For example, it was stated that calculating deductions for unreimbursed medical expenses can be very time-consuming and cumbersome. In addition, elderly and disabled families may be more likely to have special needs or reasonable accommodations. For instance, PHA staff may need to conduct annual examinations at the family's unit as opposed to requiring the family to come to the PHA's office.

Other comments focused less of the accuracy of the study's findings and more on the potential unintended consequences of a formula that provides PHAs with a higher fee for assisting more working families. The weight and wide range of the variable can have a significant impact on the PHA's administrative fee (for example, the potential range of the dollar value for percentage of families with earned income variable under this proposed rule is between $15.89 and $57.23). Commenters expressed concern that the value of this cost variable in the fee formula would force PHAs to establish admission preferences for working families and/or eliminate preferences for disabled or homeless families in order to increase the number of families with earned income and generate higher administrative fees. Commenters suggested that the recommended formula, combined with the need to maximize administrative fee revenue, would ultimately have a detrimental impact on household types less likely to have income from wages if the variable is included in the formula.

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[17] Racially or ethnically concentrated area of poverty means a geographic area with significant concentrations of poverty and minority populations (24 CFR 5.152). To assist communities in identifying R/ECAPs for the Assessment of Fair Housing, HUD has developed a census tract-based definition of R/ECAPs that involves a racial/ethnic concentration threshold and a poverty test. The racial/ethnic concentration threshold is that for metropolitan areas, R/ECAPs have a non-white population of 50 percent or more. For non-metropolitan areas, R/ECAPs have a non-white population of 50 percent or more. The poverty threshold is that R/ECAPs must have a poverty rate that exceeds 40 percent or is three or more times the average tract poverty rate for the metropolitan/micropolitan area, whichever threshold is lower. See "Data Documentation" posted at *https://www.huduser.gov/portal/affht_pt.html#affhassess-tab*.

HUD Response

HUD did not eliminate or modify the households with earned income variable for the fee formula under this proposed rule. While recognizing that the study's cost data and time reporting is limited to the 60 PHAs in the study sample, the study's data collection simply does not substantiate the comments that contend that assisting elderly and disabled families is as administratively costly as assisting families with earned income. On the contrary, the study's correlation analysis specifically examined the relationship between the percentage of households with non-elderly disabled heads and elderly headed households and HCV administrative costs. In both cases the coefficient value for the variable was negative, not positive. This means that the higher the percentage of non-elderly disabled headed households and the higher the percentage of elderly households assisted by the PHA, the lower the UML administrative cost for the agency. The actual RMS collection data also conclusively showed that elderly and disabled families took less time on the most time consuming aspect of the program (annual recertifications) and were therefore less costly than assisting non-elderly and non-disabled families for the sample PHAs. Both the data collection and the regression analysis on elderly and disabled families support the study's ultimate determination that the percentage of families with earned income variable is a significant cost driver in the administration of the HCV program.

This formula variable is not in any way intended to force or pressure PHAs into serving more families with earned income at the expense of the people with disabilities or elderly people. On the contrary, it is included so that PHAs are not discouraged from serving families with earned income as a result of the higher administrative costs associated with those families by compensating PHAs for those higher costs.

That said, HUD remains concerned that this variable could potentially have unintended consequences in terms of the types of families that the program serves.

*Specific solicitation of comment #7:*

7a. HUD specifically seeks comment on whether this variable should be removed from the formula despite the strong correlation between it and administrative costs.

7b. HUD also specifically seeks comment as to whether the formula should constrain the coefficient estimate for the percent of households with earned income variable. This would reduce the dollar value of the households with earned income adjustment in the formula calculation and provide greater weight to the other cost variables while still providing an adjustment in the base fee amount for households with earned income. For example, the formula could reduce the earned income coefficient of $1.02 by 50 percent or some other percentage. HUD is particularly interested to know if there is a specific amount of percentage decrease or other constraint that the commenter would propose and the rationale for the commenter's recommendation.

7c. HUD also seeks comment on other ideas to broaden or modify this particular formula variable.

7d. HUD also seeks comment on how to address concerns related to this indicator on efforts to assist the homeless. Unlike elderly and disabled families, the simple regression analysis did indicate that PHAs that had a strong admissions preference for homeless had a positive coefficient (meaning that the PHAs had higher administrative costs) although it was not statistically significant.

Elsewhere in this preamble, HUD is proposing to provide an additional fee for new admissions from the waiting list that are homeless families. In this regard, HUD seeks comment on those particular issues later in the rule.

*Specific solicitation of comment #8:*

8a. Would the homeless new admission add-on fee adequately address the concerns that the fee formula may inadvertently create a disincentive for PHAs to serve the homeless?

8b. Alternatively, should a formula variable for homeless new admissions or current participants who were formerly homeless be included in the base fee calculation? For example, one possibility is to revise the percent of households with earned income variable to include formerly homeless families (*e.g.,* homeless families that were admitted within the most recent three years) in addition to families with earned income when calculating the percentage that is the PHA variable value. One concern about this approach is the quality of the data reported to HUD on homeless admissions. It is evident that many PHAs do report this data, but in other cases it appears that the data is not reported.

8c. HUD is interested on hearing from PHAs and other stakeholders on their experiences with homeless data and reporting homeless data, whether the data reporting would be reliable enough to include in the model, and whether there are changes in guidance or other approaches HUD could take to improve the accuracy, completeness, and reliability of homeless admissions data in the HCV program.

Comments on New Admission Rate

*New Admissions Rate.* Based on the amount of time that PHAs spend on intake, voucher issuance, and lease-up for households newly admitted to the program, a relatively higher percentage of new admissions in a PHA's program should increase per unit administrative costs. This formula variable is defined as the number of new households admitted to the voucher program as a result of voucher turnover or new allocations of vouchers in the year, divided by the number of vouchers under lease (including port-in but excluding port-out vouchers). Although the study's cost driver analysis did not find that the new admissions rate was significantly associated with costs, the rate of new admissions had such a strong theoretical reason for impacting costs the study team decided it should still be included as a component of the fee formula. HUD has retained the new admission rate variable in the fee formula under this proposed rule.

*Variable Calculation:* The fee calculation for the new admissions rate variable is $0.15 multiplied by the most recent three year average of the percentage of the PHA's households that were reported in PIC as new admissions at any time during the measurement year. The possible values for the new admissions rate variable are limited to the highest and lowest values for the 60 PHAs in the study sample, which are 52.19 and 2.93 respectively.

As part of the annual adjustment of the administrative fee, the new admissions rate for the PHA would be recalculated each year using the most recent three years of PHA data from PIC (or its successor program).

The comments were generally supportive of including the new admissions rate as a formula variable despite the fact it was not statistically significant in the regression model. There were a number of concerns that the impact of the variable may be understated because during the study period many PHAs had stopped or severely reduced leasing due to sequestration funding cuts.

The study attempted to address the concerns regarding the reduction in HAP funding and the impact on leasing in 2013 by testing two measures of new admissions in the cost driver analysis: The rate of new admissions in 2013 and the rate of new admissions in 2012. The HAP funding proration in 2012 was 99.6 percent as compared to the 94 percent HAP funding proration in 2013.

For purposes of developing the proposed formula model, the study used the new admissions from 2012. The study team determined that the 2012 new admissions rate was more representative of the cost data collected than the 2013 new admissions rate because many PHAs reduced their leasing substantially in 2013 in response to the reduced HAP funding. The HAP funding proration in 2012 was equal to or exceeded the HAP funding prorations in 2011, 2010, and 2009 (99.5 percent, 99.5 percent, and 99.1 percent respectively). Furthermore, the study cost estimates included upward cost adjustments to account for any staff reductions that took place before the study's data collection period in order to approximate the level of staffing that was needed by the PHAs in 2012.

Another comment concerned the impact of incoming families under the portability procedures. It was noted that many of the tasks the receiving PHA does to assist an incoming portability family lease in its jurisdiction are the same as what the PHA would do for any other new admissions.

### HUD Response

The new admissions rate currently does not include incoming portability families unless the PHA has absorbed the family into its own program.

*Specific solicitation of comment #9:* HUD specifically requests comment on whether the numerator for the new admissions rate should include families that initially leased in the PHA's jurisdiction under the portability procedures to capture the increased cost for the receiving PHA, regardless of whether the PHA chooses the billing option instead of absorbing the family into its own program.

### Comments on 60 Miles Variable

*60 miles.* The 60 miles variable is a measure of the size of the PHA's jurisdiction. The variable is defined as the percentage of voucher households that live more than 60 miles from the PHA's headquarters. The study determined that PHAs that serve large geographic areas have higher costs. The reasons for these higher costs may include inspectors having to travel greater distances to units or that the PHA may need to establish and operate satellite offices.

*Formula Variable:* The fee calculation for the 60 mile variable is $0.83 multiplied by the percentage of families that reside more than 60 miles from the PHA's headquarters, based on the addresses reported in PIC. The possible values for the 60 mile variable are limited to the highest and lowest values for the 60 PHAs in the study sample, which are 47.39 and 0 respectively.

As part of the annual adjustment of the administrative fee, the 60 mile variable would be recalculated each year using the most recent year of PHA data from PIC (or its successor program).

The study's recommended formula calculated the percentage by geocoding the addresses of individual voucher families and the address of the PHA's headquarters and calculating the shortest distance between the two points. (Port-out vouchers were not included in the calculation.) The cost driver analysis found that the percent of households living more than 60 miles from the PHA's headquarters is significantly and positively associated with administrative costs.

The study found that 87 percent of PHAs had no voucher families living more than 60 miles from the PHA's headquarters, so this variable mainly affects a minority of PHAs with very large jurisdictions and statewide PHAs. However, the variable range was very broad (from 0 to 47.39) and adds $0.83 (under the formula in this proposed rule) for each percentage increase in the percent of families living more than 60 miles from the PHA headquarters. So although the variable does not apply to most PHAs, it has a dramatic effect on the per unit administrative fee for the relatively few agencies with higher percentages of families living more than 60 miles from the PHA headquarters.

Some commenters expressed concern about how the distance from PHA headquarters was measured. It was noted that the 60 mile standard was calculated as the shortest point to point distance between the PHA headquarters and the family's unit. Comments noted that this would be problematic for agencies where a significant percentage of families might live within a 60 mile radius of the PHA headquarters, but the travel distance by road was in excess of 60 miles.

Other commenters questioned the basic premise of the 60 mile variable, noting that some State agencies or PHAs subcontract their operations to other agencies or entities, and that those entities operate in their respective service areas, using their own employees and office buildings. In those cases, the PHA is not required to have its own inspectors cover large distances or operate satellite offices. Other commenters specifically questioned the validity of the 60 mile variable for State agencies. These comments pointed out that State agencies, by their very nature, are established and designed to administer programs across the entire state, and as such already have regional facilities and staff available to accomplish their state-wide mission. It was noted that as a result of the distance variable, many State agencies would see large increases in their administrative fees. A commenter stated that if it so much more expensive to administer the program over a large geographic area, it would make more sense to require the State agency to port families beyond the 60 mile radius to local agencies that may also have jurisdiction over the area.

### HUD Response

In cases where an agency has a large jurisdiction, HUD recognizes the agency may subcontract its administrative responsibilities or utilize an existing administrative structure (including resources and offices) that does not require inspectors to travel large distances or for the agency to open stand-alone satellite offices to effectively administer the HCV program. However, HUD believes that it is not feasible to create different distance variables based on a wide variety of different administrative models employed by PHAs, nor is it fair to completely exclude PHAs from a particular variable solely on the basis that they are a State agency and therefore should be expected to absorb any additional cost of administration related to distance. In addition, a PHA that chooses to subcontract administrative responsibilities to other entities to cover specific service areas may not have to maintain satellite offices or require inspectors to cover significant distances but will incur additional administrative costs to monitor those contracts, conduct quality control on the subcontractors' work, and otherwise ensure that the subcontractor is carrying out the administrative responsibilities that the PHA is ultimately accountable for under its

Consolidated Annual Contributions with HUD.

With respect to concerns about the 60 mile distance being calculated as a point to point calculation as opposed to being based on actual road distance, HUD will consider changing the measure for purposes of the administrative fee formula in the final rule. For now, the 60 mile threshold remains determined by calculating the shortest distance from the unit to the PHA headquarters. Determining the distance by road is more cumbersome than the straight line method, and would not necessarily reflect road closures, traffic congestion, tolls, etc., that would impact travel time and administrative cost as well as distance.

*Specific solicitation of comment #10:*

10a. HUD specifically requests comment on another alternative, which is to reduce the distance from 60 miles to a shorter distance of 50 miles to account for the potential deficiencies in the 60 mile "point to point" calculation method instead of attempting to map the distance by road each year. The study tested 50 miles as an alternative distance formula variable. The 50 mile variable also had a positive coefficient sign when tested, meaning that PHAs is the study sample with a higher percentage of families residing 50 miles from the PHA headquarters had higher per voucher administrative costs. The variable was statistically significant but did not explain as much of the variation in cost.

10b. HUD also specifically seeks comment on whether the formula should constrain the coefficient estimate for the 60 miles variable. This would reduce the dollar value of the 60 miles adjustment in the formula calculation and provide greater weight to the other cost variables while still providing an adjustment in the base fee amount for PHAs that serve households residing more than 60 miles from the PHA headquarters. For example, the formula could reduce the 60 miles coefficient of $0.83 by 50 percent or some other percentage.

### Additional Comments on Distance Measurement

Other comments questioned whether distance was the appropriate measure of the variation in cost to administer the program in a given area. For example, agencies in urban areas, while traveling shorter distances, may have greater time and cost burdens than a larger rural area, due to traffic congestion, the cost of parking, the need to rely on a variety of transportation options, etc.

The study examined the subject of PHA jurisdictional size and type in detail. One of the tested cost drivers was the urban PHA variable, which was defined as the percent of the overall population within the PHA's jurisdiction that lives in urban areas based on the 2010 census definition. The problem with the urban PHA cost driver was that there was not a strong theoretical basis for its effects on HCV program costs. For example, many of the reasons why costs would be higher (*e.g.,* such as traffic congestion adding to inspection times) might be offset by time-saving characteristics, such as HCV units tending to be less dispersed. Another weakness was that when a related variable was tested that measured the percentage of HCV households in the PHA program that reside in urban areas, the coefficient for that variable was negative (meaning that PHAs in the sample with higher percentages of HCV families living in urban areas tended to have lower costs) and not statistically significant. The study team did not include the urban PHA variable in the recommended formula because it was not clear how operating in a jurisdiction with a more urban population would increase program costs while serving more HCV households in urban areas decreases costs.

By contrast, the distance variable was positive and statistically significant, both at 50 and 60 miles, leading the study to conclude that it was a significant cost driver that should be included in the formula.

Other commenters suggested that HUD consider the overall area of the PHA's jurisdiction in terms of square miles, rather than the percentage of families that live a certain distance from PHA headquarters. However, it is unclear as to why the overall size of the PHA jurisdiction would have a significant impact on costs unless the HCV participants were dispersed throughout the entire jurisdiction. In addition, the study tested the area (in square miles) of the PHA jurisdiction and found that in the study sample the variable was not statistically significant and had a negative coefficient sign.

### HUD Response

In the Solicitation of Comment Notice HUD noted that one of the potential weaknesses of using the average distance of voucher families from PHA headquarters is that if an agency primarily serves households in a relatively small area but the area is more than 60 miles from the PHA headquarters, the variables' impact on PHA costs could be significantly overstated.

*Specific solicitation of comment #11:* HUD seeks comment on how to address this concern and specifically requests comments on how HUD should establish an additional threshold that would adjust the formula variable for cases where a significant portion of the PHAs families are clustered beyond the distance threshold from the PHA headquarters. For example, if the majority or the greatest concentration of voucher families are located within 60 miles of an alternative location as opposed to the PHA headquarters, the distance variable could be calculated from that reference point, as opposed to the PHA headquarters, which might be located in a distant State capital but does not reflect where the PHA's main operations center is (or should be expected to be) located. Alternatively, the formula could use a measure of dispersion—how far HCV participants live from one another—to capture the extra administrative costs involved in serving households over a large area.

### Comments on Other Suggested Cost Drivers

A number of comments suggested that the study's recommended formula should have included other cost drivers that could significantly impact the variation in administrative costs between PHAs.

*Comments on success rates.* Some commenters noted that PHAs do a substantial amount of work for voucher holders who do not ultimately lease units and therefore PHAs with lower success rates (the percentage of families who are issued a voucher that ultimately succeed in leasing a unit under the program) would have higher administrative costs than PHAs with relatively higher success rates. These commenters urged HUD to include a success rate variable in the fee formula.

*HUD Response:* The study acknowledged that voucher success rates have a strong theoretical basis for impacting administrative costs. For example, a PHA with a lower success rate would have to conduct more eligibility determinations and issue more vouchers than a PHA with a higher success rate in order to maintain leasing. Unfortunately, the study team was unable to test the relationship of voucher success rates to UML administrative costs because reliable data on success rates was not available. While both voucher issuances and new admissions are recorded in HUD's PIC system, the data on voucher issuances was not reliable enough for the study team to calculate the success rates with any confidence. Even if HUD were to request that the study PHAs provide information on their success rates directly for purposes of testing its relationship to administrative cost and statistical significance (as suggested by a commenter), HUD would still need to use the voucher issuance data to calculate the dollar adjustment to the PHA administrative fee for the broader universe of PHAs.

Another area of concern in terms of a success rate variable is whether a high success rate is necessarily always indicative of a less challenging rental market. For instance, a PHA may have achieved a high success rate through a very aggressive approach to landlord outreach and housing search assistance, figuring that those extra administrative costs would be mitigated or off-set by the savings the PHA realizes by not having to process as many families to lease a unit.

A fee formula that provided higher fees to PHAs with lower success rates would be disadvantageous to a PHA that had achieved a high success rate through an aggressive approach to landlord outreach and housing search assistance. Furthermore, a poor success rate may be the result other factors besides the rental market, such as inadequate owner outreach or payment standards that are set at the low end of the basic range. Just as commenters expressed concerns over the potential unintended consequences of the percentage of families with earned income formula variable, similar concerns might arise that the formula was ''rewarding'' PHAs for achieving low success rates, rather than encouraging and supporting PHAs that have expended administrative effort and incurred costs to improve the likelihood that their families successfully lease with their vouchers. By providing higher fees for low success rates, the formula might perversely discourage PHAs from increasing their administrative efforts to improve success rates and reduce the number of families that ultimately fail to find housing. An alternative approach, discussed below, to addressing the relative challenges and cost impacts of different market areas might be to reconsider vacancy rates or other market indicators of the availability of affordable housing rather than focusing on success rates as a proxy for market challenges.

*Comments on availability of affordable housing:* Several commenters expressed concern that the fee formula did not include any variable that measured the relative availability of affordable housing units in the PHA's jurisdiction. In theory, a PHA's administrative costs should be higher in tight rental markets, since the PHA may have issued a greater number of vouchers and/or have intensive landlord outreach and housing search assistance in order for families to successfully lease units with voucher assistance.

*HUD Response:* The study team tested several variables to proxy the availability of affordable housing, including (1) the vacancy rate from the 5-year ACS (2008–2012) for rental units in census tracts in the PHA jurisdiction; (2) the third quarter 2013 vacancy rate from the US Postal Service (USPS) for residences in census tracts in the PHA jurisdiction; and (3) the third quarter 2013 vacancy rate from the USPS for multifamily dwelling units in census tracts in the PHA's jurisdiction.

The ACS vacancy rate had the advantage of covering only rental units, as opposed to all residential units, but it was based on data collected from 2008 and 2012 and therefore did not represent the most up-to-date market conditions for the time period the administrative study was covering.

The USPS tracks residential vacancies on a quarterly basis but does not provide data separately for rental units and consequently may not be a good proxy for the market conditions that impact the HCV program. The study team worked with HUD to isolate the vacancy rate for multifamily units in the USPS vacancy data—which could be a closer approximation to the rental vacancy rate than the overall residential rate.

Ultimately, however, none of these three variations was statistically significant when tested in the simple correlation analysis. Furthermore, when added to the combined cost driver model, the coefficients on all three vacancy rate variables remained insignificant and—contrary to expectations—the USPS multifamily variable's coefficient was positive (meaning the higher the vacancy rate, the higher the administrative unit cost for the PHA), which was the opposite of what was expected. Consequently, the study team concluded that residential vacancy rates, at least as captured by the available data, could not be included as a cost driver for consideration for the proposed fee formula.

*Specific solicitation of comment #12:* HUD specifically requests comment on whether there are other approaches to measuring rental markets in order to determine what, if any, impact this factor may have on variations in administrative costs and to incorporate it into the formula, if appropriate.

*Comments on end of participation and frequency of moves.* A number of comments suggested that the formula should include variables for end of participation (EOP) and frequency of moves. For example, it was suggested that EOP data might be a better measure of the variation in costs brought about by the relative turnover in the voucher program than the new admissions rate variable. Other comments noted that the frequency of voucher participant moves would have an impact on administrative costs among PHAs in terms of the number of unit inspections, rent reasonableness determinations, rent calculations, HAP contract executions, etc., the PHA would have to conduct. This variation in administrative costs would not be captured in the new admissions variable.

*HUD Response:* With respect to EOP, the study team tested two measures of EOP: EOP as a percentage of total vouchers under lease in 2013 and EOP as a percentage of total vouchers under lease in 2012. Neither of these measures was statistically significant when tested against the base model of program size and wages. The study team retested the 2012 variable and included it in near-final versions of the formula model, once in addition to the new admissions variable and once as a substitute for the new admissions variable. In both cases the EOP variable was not significant and the coefficient was negative (PHAs with higher percentages of EOPs had lower unit administrative costs), which was not in the expected direction. As a result, the EOP variable was not included in the study's recommended formula. The EOP variable was tested again in the model developed for this proposed rule and was not statistically significant.

Concerning the frequency of moves, HUD agrees that higher rates of moves among voucher families should result in higher administrative costs, given all the work associated with processing a move request, issuing the voucher, and inspecting and ultimately placing a new unit under HAP contract. The study team tested a move variable for each PHA in the study sample, which was the number of moves in 2013 divided by the number of vouchers under lease. In the simple regression model with program size and wage index, the coefficient on the frequency of moves variable was negative (meaning that the higher the move rate, the lower the administrative cost per unit), which was not the expected direction, and the variable was not statistically significant. When combined with other cost drivers, the frequency of moves variable remained statistically insignificant and the coefficient remained negative. As a result the variable was not included in the study's fee formula. The variable was tested again in the model developed for this proposed rule and although the coefficient became positive it was not statistically significant.

*Comments on limitation on the range of the formula variables:* As discussed in detail in the HCV Program Administrative Fee Study Final Report (section 7.3.1), each variable in the proposed formula has a range of values. The regression model for the formula was based on both the per-unit costs estimated for the 60 PHAs in the study and the values for the input variables observed across those PHAs. In most cases, the 60 PHAs in the study are very close to all HCV PHAs in the mean and median values observed for the formula values. However, some PHAs have variable values outside of the range of values observed for the 60 sample sites. Since the formula is based on a sample of PHAs with input values within a certain range, the cost estimates do not necessarily apply in cases where an individual PHA may have a value outside the range tested. To eliminate those extreme values where the costs and inputs are not likely to have the same relationship as found in the model, the study recommended restricting the range of allowable values to those observed in the PHA sample.

For example, the highest percentage of new admissions among the 60 study sites was 52.19 percent. If a PHA's share of new admissions exceeded 52.19 (*e.g.,* 60.00), the PHA's value for this variable would be capped at 52.19. Likewise, the lowest percentage of new admissions for the 60 study sites was 2.93. Even if a PHA's share of new admissions was below 2.93 (*e.g.,* 0), the PHA's value for this variable would still be 2.93.

*HUD Response:* The limitation on the range of the formula values would apply at both the implementation of the new fee formula and to the subsequent annual recalculations of the PHA administrative fee that is based the PHA's variable values.

*Specific solicitation of comment #13:* HUD has retained this limitation on the PHA values in the proposed administrative fee formula, but is specifically seeking comment on whether this restriction should be modified or removed at the final rule for some or all of the formula variables. For example, HUD is seeking comment on whether the limitation on the range of PHA values should be established at the 25th and 75th percentile of all PHAs, rather than the minimum and maximum values that were observed for the 60 sample PHAs, for the percent of households with earned income and the new admissions variable. Establishing limits based on the values for all PHAs (*e.g.,* at the 25th and 75th percentile or some other percentile cutoff) would ensure that the formula is not imposing archaic limits or the range of PHA variables and makes adjustments as circumstances dictate. Another approach would be to revisit the limits on the formula value ranges periodically (*e.g.,* every 5 years or in the event of a major program change that would significantly impact a formula variable) and make adjustments when necessary.

*Comments on PHA variable value calculations:* The PHA's ongoing administrative fee would be updated each year based on the most recent available data. The study noted that an important issue to consider in terms of these adjustments is the year-to-year volatility in the data. If a PHA's values for the formula variables are highly volatile from year to year, the result could be significant swings in the fee rate amount that would be difficult to predict and would further complicate program administration.

The study team analyzed the volatility of the formula variables. As a result of this analysis, the study recommended that while the PHA's values for the program size, wage index, and 60 miles variables should be based on the most recent year of data, the fee formula should use three year averages for the remaining variables—health insurance cost index (now replaced by benefit load), percent of households with earned income, and new admissions rate. The three year average is the average of the latest year where data is fully available and the two preceding years. The PHA's values for the variable would continue to be subject to the maximum and minimum limits (the range) for that particular variable.

Some commenters suggested using a 5-year average to further reduce the risk of volatility of the formula variables and the potential impact on the administrative fee.

*HUD Response:* HUD is retaining the 3-year average approach for benefit load, households with earned income, and new admissions rate, but is specifically seeking comment on whether to consider a 3-year averages or alternative averages for the other variables in the formula to further reduce the risk of volatility.

*Specific solicitation of comment #14:* HUD also seeks comment on whether HUD should use a longer time period, such as a 5 year average, for some or all of the variables.

*Comments on fee floors and ceilings:* The study found that across the 60 study PHAs, the average administrative cost per voucher for CY 2013 ranged from $42.06 per UML to $108.87 per UML. A straight application of the study formula for the more than 2,200 PHAs would result in predicted fees that fall below the lowest observed cost of $42 per UML for two percent of PHAs overall. All of the other PHAs in the study had costs that exceeded $42 and the formula is designed to capture those actual costs.

Because $42 per UML is the lowest cost the study observed under which a PHA with very low cost drivers could operate a high-performing and efficient program, the study recommended that the formula establish a floor of $42 per UML. However, the 80 PHAs in the U.S. Territories may have costs that the fee formula is not capturing as reflected in their current funding levels. Due to those concerns and to minimize the funding disruption, a floor of $54 per UML was proposed for the U.S. Territories. The study did not measure costs for any PHAs located in the U.S. Territories. The study recommended $54 per UML as the floor for the U.S. Territories, which is an approximation of the lowest cost per UML in the U.S. Territories at the time of the study. The $54 floor fee was equal (at the time of the study) to the lowest prorated fee received by PHAs in the U.S. Territories increased by four percent. Four percent is the difference between the cost per UML and the prorated fee per UML for the lowest cost PHA in the study sample.

Some commenters believed that the fee floor of $42 per UML was inadequate. Suggested alternatives included the average cost per unit observed by study ($70) or the fee the PHA was receiving immediately prior to the transition to the new fee formula. Other comments questioned the rationale and fairness of imposing a separate floor for the U.S. Territories and not for other areas that have a disproportionate share of decliners compared to the nation as a whole.[18]

*HUD Response:* HUD has retained the $42 per UML floor for the administrative fee and the separate $54 per UML floor for the administrative fee for PHAs in the U.S. Territories for the fee formula that would be implemented in accordance with this proposed rule. The PHA's administrative fee, pre-inflation, would never be less than this fee floor, even if the fee calculation based on the six variables and the PHA values for those variables would otherwise have resulted in a lower amount.

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[18] "Decliners" refers to PHAs that would receive less funding under the proposed rule fee formula than they would have received under the current formula.

HUD does not agree that establishing a floor based on the average cost per unit of $70 observed by the study would accurately reflect the minimum fee necessary to administer the program, as a significant number of the effective, high-performing PHAs in the study sample were in fact administering the program for less than that amount. HUD also does not believe establishing a fee floor at whatever fee the PHA happened to receive under the current formula is defensible, given that the study found that the current formula does not account for the actual cost drivers of program administration. However, HUD agrees that any decrease in the fee as a result of the new formula must be implemented in a manner that reduces the risk of disruption to PHA operations and gives the agency sufficient time to prepare and adjust to a decrease in the administrative fee.

HUD is proposing to limit the amount by which a PHA's fee may decrease from the actual administrative fee amount the PHA was previously receiving prior to the effective date of the adjustment, both at the initial implementation of the new fee formula and for any subsequent year adjustment. (This limitation is discussed in detail later in this preamble.)

With respect to imposing separate fee floors for other areas of the country beyond the U.S. Territories, HUD is declining to do so in the proposed rule. HUD believes that the study sample was diverse enough in terms of geography, PHA size, market factors, etc., that it is not evident why establishing separate floors would be justified for areas other than the U.S. Territories. Under the fee formula that would be implemented in accordance with this proposed rule, only six PHAs outside the U.S. Territories would receive the fee floor of $42 per UML.

In addition to retaining the $42 per UML floor for the administrative fee and the separate $54 per UML floor for the administrative fee for PHAs in the U.S. Territories recommended by the study, HUD proposes to establish a maximum fee of $109 per UML (prior to inflation) for all PHAs. HUD's rationale is that $109 per UML is the highest cost measured by the study for a high-performing and efficient HCV program. Under the fee formula that would be implemented in accordance with this proposed rule, two percent of PHAs overall would have predicted fees in excess of $109 per UML (prior to inflation). These PHAs would receive the maximum fee of $109 per UML, prior to the inflation adjustment. In 2014, none of the PHAs that would have received the ceiling fee of $109 per UML under the proposed formula ($111.36 after the inflation adjustment) would have experienced a loss in funding relative to what they received under the current formula.

In sum, under the fee formula that would be implemented in accordance with this proposed rule, PHAs would be subject to a fee floor of $42 per UML prior to inflation adjustment and a fee ceiling of $109 per UML prior to inflation adjustment.

*Specific solicitation of comment #15:* HUD seeks comment on this proposed approach to setting fee floors and ceilings.

*Comments on limitations on overall decreases and increases in the PHA administrative fee at initial implementation and subsequent fee adjustments:*

The study recommended that HUD consider a transition or phase-in plan to allow PHAs time to adjust to the new fees. The study recognized that a transition or phase-in plan would be particularly important for PHAs that would experience a decrease in their administrative fee under the new formula. The purpose of a transition period to full implementation is to minimize the disruption to program operations for those PHAs that would experience a decrease in fee funding.

The study suggested HUD consider a simple phase-in approach that would distribute the loss in fees gradually over a number of years so that the PHA does not experience a decrease in fees above a certain percentage in any given year. For example, a 5-year phase-in plan would result in a decliner PHA seeing its fees reduced each year for the first five years of implementation. In the fifth year, the PHA would receive the fee amount calculated under the new fee formula with no adjustments. The study noted that HUD could adjust the time period for the phase-in (*e.g.,* use 3 years instead of 5 years) and could limit the phase-in to a subset of PHAs (such as only to PHAs experiencing a decrease over a certain percentage threshold.) Another alternative suggested by the study was for HUD to limit the extent of individual gains or losses from the funding received the year before the formula implementation.

Many comments expressed concern that implementation of the new formula could result in disruptions to PHA operations. Commenters were not only concerned about the negative impact on agencies that would see a decline in their fee as a result of the formula change but also expressed fears that implementation, if coupled with insufficient appropriations to fund the new formula, could be harmful to numerous PHAs.

### HUD Response

One of HUD's main objectives in undertaking the study and developing a new fee formula was to bring a level of consistency and stability to the administrative fee funding that PHAs rely upon to carry-out their administrative responsibilities under the program. HUD recognizes the difficulties that uncertainty and unexpected fluctuations in administrative fees create for PHAs in terms of their ability to budget and manage their HCV programs beyond the immediate calendar year. Through this proposed rule HUD seeks to alleviate the concerns of the commenters that implementation of the formula would have immediate and potentially devastating impacts on PHA operations due to severe funding reductions.

The proposed fee formula already seeks to reduce the potential volatility in administrative fees introduced by the new formula by restricting the ranges of the variable values and by using three year averages rather than one year of data for the cost drivers that are most at risk of dramatic changes from year to year. In addition, HUD is proposing to implement an overall cap on the percentage by which the PHA's administrative fee, pre-inflated, may decrease from the previous administrative fee amount it received, both at the initial implementation of the new fee formula and the subsequent annual recalculations of the administrative fee thereafter.

HUD considered the 5 year and 3 year phase-ins but was concerned that those approaches could be relatively cumbersome. Since the PHA's fee would be changing each year during the 3 year or 5 year phase-in period, the fee calculation could for some PHAs become somewhat complicated, especially if the PHA's fee under the new formula was increasing and/or decreasing throughout the transition period to full implementation. Placing a limitation on how much the recalculated administration fee could decrease from the previous fee amount received by the agency would be far easier to calculate and explain.

Under the fee formula that would be implemented in accordance with this proposed rule, the PHA administrative fee per UML could be no less than 95 percent of the ongoing administrative fee per UML the PHA received from HUD for the year prior to the effective date of the new per UML fee amount, adjusted for inflation. In other words, the PHA administrative fee per UML could not decrease by more than 5 percent per year as a result of the new formula implementation or the subsequent annual recalculation based on the changes in the PHA's variable values.

In addition to limiting the percent by which a PHA's administrative fee may *decrease* at implementation and in subsequent years, HUD is proposing to limit the percentage *increase* in the administrative fee at implementation and in subsequent annual recalculation of the administrative fee based on changes in the PHA's variable values. Under the fee formula that would be implemented in accordance with this proposed rule, the PHA administrative fee per UML in any given year could be no more than 140 percent of the administrative fee per UML that the PHA received for the year prior to the effective date of the new per UML fee amount, adjusted for inflation. HUD believes that 40 percent still represents a very significant increase in an administrative fee for the impacted PHAs. By capping the percentage increase in a PHA's fee to no more than 40 percent, the formula covers the cost of limiting the decrease for the decliner PHAs without increasing the amount of funding that would be necessary to fully fund the fee formula if there was no transition under the new formula. In other words, the protection for the decliner PHAs does not increase the overall cost of the new formula if HUD also limits the annual increase for gainers to no more than 40 percent of the previous year's administrative fee.

Applying the proposed caps on both the percent by which the PHA administrative fee per UML could decrease in any given year and the percent by which the PHA administrative fee per UML could increase in any given year, the fee formula that would be implemented in accordance with this proposed rule would work as follows. In the first year that the new fee formula is implemented, the PHA's fee per UML would be the maximum of the new formula fee per UML or 95 percent of the fee per UML received in the previous year under the existing formula, not to exceed 140 percent of the fee per UML received in the previous year under the existing formula. After the first year of formula implementation, the point of reference would be the fee received in the previous year under the new formula. In other words, in the second year of implementation, the PHA's fee per UML would be the maximum of the current year's fee per UML based on the new formula or 95 percent of the fee per UML received in the previous year under the new formula, not to exceed 140 percent of the fee per UML received in the previous year under the new formula. In this way, each PHA will eventually receive the fee per UML calculated by the new formula based on the PHA's variable values, but the increase or decrease in fees will take place gradually in order to minimize the risk of disruption to PHA operations.

Comments on Limiting Increases to the Fee

In general, most comments were opposed to establishing a limit on increases to the fee. On one hand HUD is reluctant to impose limits on increases in administrative fees brought about by the new formula. The formula is designed to reflect the actual costs of administering the HCV program, and phasing in or limiting the increases in a PHA's administrative fee would delay the time when the PHA's fee would reflect those costs. On the other hand, one of the more common concerns expressed in the comments was the potential adverse impact of insufficient administrative fee appropriations and resulting pro-rations on the new formula at implementation, especially for agencies that would experience a decline in funding as the result of the new formula.

HUD Response

Limiting the annual increase of the administrative fee to a reasonable standard as part of the formula reduces the overall cost and increases the likelihood that the appropriations funding would not result in significant pro-rations. The study and a new fee formula based on the study's findings provide evidence-based justification for HUD's Budget Requests for administrative fee funding. HUD believes that implementation of the new formula will help to reduce the risk of deep pro-rations in administrative fee funding for the HCV program. However, the availability of appropriated funding is not within HUD's control.

In the event that the appropriated funding is not sufficient to limit the fee reduction for decliner PHAs to no more than 5 percent from the previous year's fee per UML, under this proposed rule HUD would have the authority to reduce the maximum percentage increase from the previous year's fee per UML from 40 percent to a lower percentage (*e.g.,* 20 percent). HUD would reduce the maximum annual percentage increase only to the extent necessary to limit the fee reduction for decliner PHAs to no more than 5 percent from the previous year's fee per UML.

*Specific solicitation of comment #16:*

16a. HUD seeks comment on this proposed approach to limiting decreases and increases. Specifically HUD seeks comment on the proposed limitation on increases and decreases as the result of the formula (fees may not decrease by more than 5 percent from year to year or increase by more than 40 percent from year to year as the result of the formula) as well as the following alternatives.

(a) There is no limit on increases as a result of the formula.

(b) There is no limit on decreases as the result of the formula.

(c) The limit on increases is changed to 20 percent.

(d) The limit on increases is changed to 30 percent.

(e) The limit on decreases is changed to 10 percent.

16b. HUD is also specifically requesting comment on the proposal that would allow HUD to further constrain the maximum percentage increase for gainer PHAs when necessary to ensure that the decliner PHAs' fees do not decrease by more than 5 percent annually. Are such additional constraints on gainer PHAs appropriate in the event of insufficient appropriations or should fees be prorated equally in such a circumstance, regardless of whether a PHA is a gainer or a decliner? Should parameters be established to ensure that the gainer PHAs receive at least a minimum percentage increase? For example, the formula could provide that in cases where the maximum percentage gain must be further constrained beyond the normally applicable 40 percent cap, the maximum cap would not be set below a 10 percent increase.

If funds were still insufficient to fund administrative fees after the gainer PHAs were capped, what further adjustments should be made to the administrative fees to cover the funding shortfall? For example, in such an instance should the maximum percentage decline be adjusted from 5 percent to a different amount (*e.g.,* 10 percent) to cover or reduce the remaining shortfall? Or should all PHAs' administrative fees (both gainers and decliners) simply be equally prorated downward at that point? More broadly, are there other, preferable approaches to addressing the gains and declines in administrative fees if administrative fee funding is insufficient to cover the need?

16c. In light of the comments expressing concerns about insufficient funding and the potential adverse impact on the new formula's implementation, HUD is specifically seeking comment on whether the rule should provide that implementation of the new formula shall or may be delayed or suspended in the event that administrative fee funding is insufficient to the degree that implementation may seriously disrupt or impair PHA operations.

As discussed above, in the event that the appropriated funding is not sufficient to limit the fee reduction for decliner PHAs to no more than 5 percent from the previous year's fee per UML, under this proposed rule HUD would have the authority to reduce the maximum percentage increase from the previous year's fee per UML from 40 percent to a lower percentage (*e.g.,* 20 percent). However, there could be circumstances where HUD, despite further restricting the fee increases, may not have enough funding to implement the new formula without imposing significant fee prorations to the new fees.

In such a circumstance, the rule could allow for implementation to be delayed and instead provide, for example, that HUD shall simply apply an inflator factor to the PHA's administrative fee for the previous year and prorate all fees accordingly. However, delaying implementation (or further restricting the percentage by which a PHA's fee may increase under the new formula for that matter) could be disadvantageous to those PHAs that are gainers under the new formula. How severe would a funding shortfall need to be to delay implementation? What specific thresholds should be used to delay or suspend the implementation of the new formula under such a policy? For instance, the threshold could be based on: The level of funding appropriations as a percentage of the level of estimated need; the share of PHAs that would be decliners under the new formula; the maximum increase that could be provided to gainers under the new formula; or some other factor.

## Comments on Inflation Adjustment

After the new fee rate is calculated for the PHA, but prior to the implementation of limitations on increases and decreases described above, an inflation factor would be applied to account for cost increases since 2013 (the year for which the study estimated costs and upon which the administrative fee formula coefficients are based). The study recommended a blended inflation rate that takes into account the three types of costs: Wages, benefits, and non-labor costs. The blended rate is the weighted average of an inflation rate for each of these costs, based on the share of HCV administrative costs that each represented in the study sample of PHAs.

The study team calculated that on average, direct labor costs (wages plus benefits) accounted for 70 percent of total direct costs and direct non-labor costs represented 30 percent of costs. The study then used BLS ECEC[19] data to determine the benefits costs as a percent of total employer costs for local and State government employers. In 2014, benefits were 36 percent of total employer costs for local and State government employers. Since labor costs are 70 percent of the total costs and benefits costs are 36 percent of the labor costs, this means that benefits costs are 25 percent of the total costs (.70 × .36 = .252) and wages are 45 percent of the total cost (.70 × .64 = .448). So the weights for the three inflation rates are 0.45 for labor costs (wages), 0.25 for labor costs (benefits), and 0.30 for non-labor costs.

To measure wage inflation, the study recommended the national average wage for local government workers from the BLS QCEW,[20] which is the same source of data as is used to calculate the wage index variable. The inflation rate is calculated as the percent change in the national average wage for local government workers for the most recent year for which the data are available and the national average wage for local government workers in the formula's base year of 2013.

To measure inflation in benefits costs, the study recommended that HUD use the national average cost of health insurance for private sector employees from the HHS MEPS.[21] The HHS MEPS is the data source that the study used for the health insurance cost variable in the proposed formula. The inflation rate would be calculated as the percentage change in the national average health insurance cost for the most recent year for which the data are available and the national average health insurance cost in the study's base year of 2013.

## HUD Response

As discussed earlier, HUD dropped the health insurance cost index from the proposed formula and replaced it with the benefit load. The same concerns related to the health insurance cost index would apply to the use of the HHS MEPS as a proxy for inflation for all benefits. Because health insurance is just one component of benefits costs, it may not be a particularly effective proxy to use to estimate the inflationary impact on PHA benefits costs.

HUD believes a simpler approach to measuring inflation in both wages and benefits is to use the BLS ECEC. As the reader may recall from the benefit load variable discussion, the study considered using the ECEC as a measure of variation in the cost of benefits, since it measures employer costs for wages, salaries, and all employee benefits for State and local government workers, as opposed to only health insurance costs. The ECEC ultimately was not used as a measure for the benefits variable in the regression model because it did not make estimates of benefits costs for State and local government workers available below the national level. However, the ECEC does provide quarterly data on the total cost of compensation (wages plus all types of benefits) for State and local government workers for the nation as a whole, which allows HUD to calculate a wage and benefits inflation factor to be included in the blended inflator factor. Using the ECEC data also allows HUD to use one source for measuring inflation in wages and benefits, rather than using two different sources with different methodologies. Consequently, the proposed formula uses ECEC data on total cost of compensation for State and local government employees to calculate the inflation rate that would apply to the labor component of HCV administrative costs, which the study found represents 70 percent of total costs, as discussed above.

The inflation rate for labor costs (wages and benefits) is calculated as the percent change in the ECEC national average for total cost of compensation (cost per hour worked) for State and local government workers based on the most recent data available, compared to the ECEC national average for total cost of compensation for State and local government workers for the formula's base year of 2013.

To measure non-labor costs, which represents 30 percent of total costs, the study recommended that the formula use the BLS Consumer Price Index (CPI). The CPI measures change over time in the prices paid by urban consumers for a market basket of consumer goods and services. The most comprehensive CPI is the All Items Consumer Price Index for All Urban Consumers (CPI–U). The CPI–U's market basket of goods and services includes most items purchased for routine operations by PHAs. The inflation rate is calculated as the change in the national CPI–U between the most recent CPI–U data available and the CPI–U from the study's base year of 2013. The study team also considered the Producer Price Index (PPI). The PPI measures change over time in the selling prices received by domestic producers of goods and services. The study team concluded that the CPI is the better option to use as an inflation factor for non-labor costs in the formula, because it is the most widely used measure of price change and it measures inflation as experienced by consumers in their day-to-day living expenses.

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[19] Bureau of Labor Statistics Employer Costs for Employee Compensation.

[20] Bureau of Labor Statistics Quarterly Census of Employment and Wages.

[21] Department of Health and Human Services Medical Expenditure Panel Survey.

The blended inflation rate is calculated as follows:

Blended inflation rate = the wage and benefits inflator (0.70 multiplied by the percent change in BLS ECEC total cost of compensation for State and local government workers from base year of 2013) + the non-labor cost inflator (0.3 multiplied by the change in BLS national CPI–U from the base year of 2013.)

### Comments on Use Regional or Local Inflation Factor Instead of a National Inflation Factor

A few commenters suggested that HUD consider using regional or local inflator factors instead of a national inflator factor.

### HUD Response

HUD did not make this change for the proposed rule. The underlying wage index and benefit load variables that are used to recalculate the PHA's pre-inflated fee each year already account for the cost variations that may be attributable to metropolitan and State differences. Data are available at a regional level for non-labor costs from the CPI–U. However, data from the ECEC on wage and benefits costs are not available at the regional level for State and local government workers.

*Specific solicitation of comment #17:* HUD specifically seeks comment on the blended inflation rate, particularly the methodology proposed to account for inflation in wage and benefits costs and whether HUD should consider using regional data for the inflation factor where available.

### Comments on Administrative Fees for Vouchers Administered Under the Portability Procedures

The study found that PHAs with higher percentages of units that are port-ins (family originally moved into the PHA's jurisdiction with a voucher issued by another PHA under the portability procedures) had higher average costs, supporting the theory that there is additional time associated with processing port-ins and then continuing to work with the initial PHA under the billing option.

### HUD Response

Since the study was issued, HUD updated its portability regulations with the publication in the **Federal Register** of the Housing Choice Voucher Program: Streamlining the Portability Process Final Rule, on August 20, 2015. Under § 982.355(e)(3), the initial PHA must "promptly reimburse the receiving PHA for the lesser of 80 percent of the initial PHA's ongoing fee or 100 percent of the receiving PHA's ongoing administrative fee for each program unit under HAP contract on the first day of the month for which the receiving PHA is billing the initial PHA." [22] The proposed formula would eliminate billing between the PHAs for administrative fees. Notwithstanding the recent portability rule change, eliminating billing for administrative fees will produce a more efficient process and a more equitable result. In place of having the receiving PHA bill the initial PHA for a portion of their administrative fee, the study recommends that the receiving PHA receive 100 percent of their own fee directly from HUD for any port-in vouchers under HAP contract. The initial PHA would not receive a regular administrative fee from HUD for vouchers that had ported out of its jurisdiction since HUD is compensating the receiving PHA directly. However, the initial PHA would receive a separate fee from HUD equal to 20 percent of their own fee for any voucher for which the initial PHA is being billed for HAP under the portability option.

### Comments on Eliminating Billing for HAP

Comments generally did not oppose the proposal to eliminate administrative fee billings between PHA by allowing the receiving PHA to receive 100 percent of its own administrative fee directly from HUD for administering the portable voucher, while the initial PHA would receive a separate portability fee from HUD for its continued administrative responsibilities under the portability procedures. Some comments suggested that HUD should eliminate the billing for HAP as well as administrative fees to reduce administrative burden and streamline the process. Other comments suggested that 20 percent of the initial PHA's administrative fee may not be a sufficient amount for the portability fee.

### HUD Response

While HUD understands that there are many good reasons to eliminate HAP billings between PHAs for HAP as well as for administrative fees, the change is beyond the scope of this proposed rule. HUD will continue to explore options to reduce or eliminate portability billings and other streamlining efforts to reduce administrative burden, including technology and business re-engineering solutions. In the interim, the proposed change in how administrative fees are handled under portability should better compensate PHAs for portability costs and reduce some administrative complexity and burden.

HUD believes that 20 percent of the initial PHA's administrative fee is the appropriate amount for the separate portability fee to be paid to the initial PHA for port-out vouchers under billing arrangements. Using the time data collected, the study team developed a regression model to estimate the time PHAs spent on the continuing work required as an initial PHA in a billing arrangement compared to the time spent initially processing each port-out transaction. The study team estimated that on average each voucher under a billing arrangement took about 24 minutes of time during the 8 week RMS period, or about 156 minutes over a full year. On average, PHAs in the study sample spent a little over two and a half hours per year for each voucher that ported-out and was under a billing arrangement. The average time spent on all frontline voucher activities was 13.8 hours per voucher under lease per year. This means that the average time spent by the PHAs on billing activities as an initial PHA was about 19 percent of the time spent administering their non-port vouchers. HUD is comfortable that the portability fee for initial PHAs is reasonable based on the study's findings and has retained it in this proposed rule.

### Comments on Additional Cost Factors and Supplemental Fees

The study noted that in addition to modifying the formula, HUD should consider developing specific fees that would be provided separately to PHAs outside of the ongoing fee formula. The study's recommended administrative fee structure already includes one fee that is outside of the ongoing administrative fee formula—the portability fee that is paid directly to initial PHAs by HUD for port-out vouchers under billing arrangements. The study recognized that there are many strategic goals, program priorities, and policy objectives where PHA efforts may need to be addressed through the provision of additional fees. Furthermore, a number of cost drivers that were not statistically significant in either the simple regression or the combined regression model may still merit consideration for a separate fee, as there is a strong theoretical basis by which to conclude that they have considerable impact on a PHA's administrative costs. HUD's Solicitation of Comment Notice specifically requested comment on whether additional compensation should be provided for four specific cost drivers identified by the study, and any other areas that the commenters might wish to identify.

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[22] Prior to the rule change, when portability billing occurred, the initial PHA was required to pay the receiving PHA 80 percent of its administrative fee for each month that a family received assistance through the receiving PHA, unless the PHAs mutually agreed to a different billing amount. The rule change was designed to eliminate the incentive for a receiving PHA with a lower administrative fee from billing the initial PHA with a higher administrative fee. The overall intent of the change was to reduce PHA billing.

The four cost drivers identified in the study for consideration, and the comments that pertain to each are as follows:

(1) *Homeless households.* The results of the study's time measurement were not conclusive about the time spent serving households that are homeless at admission compared to serving other household types, and the study's simple regression analysis did not find the share of homeless households to be a significant cost driver. However, several PHAs reported that serving formerly homeless households is more time consuming than assisting other voucher families, and the study acknowledged it was possible that in reporting their time through RMS, front-line PHA staff may not always have been aware of when they were working with a homeless client. (Time spent on homeless households only accounted for 3 percent of the total data points collected by household type, and only 12 of the 60 PHAs recorded any time spent working with homeless households.)

*Comments.* As noted earlier, many of the comments expressed concern that including a cost variable for the percentage of families with earned income in the fee formula would have a detrimental impact on efforts to expand the use of vouchers to serve the homeless. Commenters pointed out that HUD's Family Options Study demonstrated the effectiveness of offering a voucher to a homeless family, and that HUD should be doing more, not less, to encourage and support PHA efforts to increase the percentage of formerly homeless families who are assisted under the HCV program. A number of PHA commenters stated that in their experience, serving the homeless—both at initial lease-up and in terms on ongoing activities—was more time consuming and administratively costly than any other household type. Reasons included the fact that many homeless families have poor credit histories and lack landlord references, making the housing search more problematic, and are more likely to have mental health and addiction challenges than a typical voucher household, complicating retention efforts.

(2) *Special voucher programs.* In addition to measuring time spent on the regular voucher program, the study measured time spent on eight types of special vouchers: (i) Project-based, (ii) tenant protection, (iii) Veterans Affairs Supportive Housing (HUD–VASH), (iv) non-elderly disabled (NED), (v) family unification program (FUP), (vi) 5-year mainstream, (vii) disaster, and (viii) homeownership vouchers. Collecting time data related to special vouchers was challenging because of the very small size of the special programs. Nine of the 60 study PHAs had no special vouchers at all, and all the special vouchers combined represented only 15 percent of the voucher portfolio for the remaining PHAs. As a result the study was only able to examine the time spent per voucher per year for three special voucher types: HUD–VASH, project-based vouchers, and homeownership vouchers.

*HUD–VASH.* Two of the 21 PHAs in the study sample that administered HUD–VASH vouchers recorded very large amounts of time on HUD–VASH during the RMS data collection period. Both of these PHAs were in the process of developing new HUD–VASH programs and logged a large amount of time developing partnerships and procedures with their Veterans Affairs Medical Center (VAMC) counterparts. While a larger sample size would be necessary for the study to draw a definitive conclusion, the experience of those two agencies suggests that HUD–VASH is very time consuming in its early stages.

The study results were inconclusive in terms of the amount of time spent on the HUD–VASH program after it is established. PHAs in the study reported that HUD–VASH is a very time-consuming program even after the start-up phase. However, the study's time estimates did not demonstrate that HUD–VASH vouchers took more time to administer on an ongoing basis than regular vouchers. The study team noted that the time spent on the voucher program may have been underestimated because the program is so small or PHA staff may have had difficulty in differentiating among different voucher types for some activities and recorded their time under regular vouchers if they were in doubt.

*Project-based Vouchers.* The study team was able to develop time estimates for project-based vouchers for 27 PHAs in the study sample. For the one PHA in the process of developing a request for proposals (RFP) during the RMS data collection period, the time study revealed that the PHA expended a great deal of time on PBV compared to regular vouchers. The other 26 PHAs spent on average about the same amount of time per voucher for project-based vouchers as for regular vouchers. However, the 26 PHAs had wide variations in the time each PHA spent per voucher on project-based vouchers. Therefore, the study did not draw any definitive conclusions in terms of the workload associated with project-based vouchers compared to the regular vouchers.

*Homeownership Vouchers.* The study was able to develop time estimates on homeownership vouchers for 27 PHAs. The study found that PHAs spend substantially more time per voucher on homeownership vouchers than on regular vouchers. Excluding time spent on inspections, the PHAs spent on average 22.3 hours per homeownership voucher per year as opposed 13.6 hours per regular voucher per year. However, the study cautioned that substantial variation existed with regard to the time spent on homeownership vouchers across the 27 PHAs. It is also important to note that the study did not find that administering the voucher homeownership program to be a significant cost driver. The study team hypothesized that this may be because the overall number of homeownership vouchers was too small relative to the number of regular vouchers to make a measurable difference in the PHAs' overall costs.

*Comments:* A number of commenters supported additional fees for HUD–VASH vouchers. Some comments focused on the amount of work involved to get a new allocation of vouchers off the ground and suggested that HUD employ a preliminary fee model to compensate agencies (*e.g.,* providing additional administrative fee funding up-front along with the new allocation of vouchers to the administering PHA). Other commenters noted that HUD–VASH administration continues to be more administratively burdensome and costly even after initial lease-up, pointing out that HUD–VASH participants are more likely to suffer from substance abuse, mental illness, and other challenges that require greater vigilance and casework on behalf of

PHA staff to ensure the family remains successfully housed.

Comments generally were supportive of supplemental fees for homeownership. For example, one commenter suggested that the $200 that HUD currently pays as a special fee for a successful homeownership closing be retained.

With respect to project-based vouchers, some commenters advocated for a supplemental fee to address the additional up-front costs to PHAs. Another suggestion was for HUD to limit supplemental fees for project-based vouchers to cases where the project was expanding housing opportunities in low-poverty areas or providing housing for homeless or other persons with disabilities, depending on the cost variables included in the fee formula or other supplemental fees for expanding housing opportunities or serving the homeless or other persons with disabilities.

*Expanding Housing Opportunities and PHA Performance Incentives.* The study suggested that HUD consider providing additional fees or fee adjustments for PHAs that score highly on program performance measures such as SEMAP or that achieve positive outcomes related to expanding housing opportunities.

The study concluded that time spent on expanding housing opportunities was not a reliable cost driver for including in the administrative fee formula. Very little time was recorded on expanding housing opportunities during the RMS time data collection, and PHAs reported that they did not have the resources to invest substantial staff time in expanding housing opportunities even though they valued those activities. Another difficulty is that there is no existing data point by which to determine the level of effort a PHA is expending on expanding housing opportunities (beyond the data collection which is only available for the 60 study PHAs). Also, because the study did not collect data on the outcomes of the expanding housing opportunity, it was unclear if those PHAs that recorded time on expanding housing opportunities actually had any better outcomes than those PHAs that did not. The study concluded that the SARR, which captures the extent to which HCV families live in relatively more expensive areas, would be a preferable approach to addressing locational outcomes and the associated administrative costs until these issues could be addressed.

*Comments:* As noted in the discussion above on the SARR variable, some comments recommended that HUD eliminate the SARR from the ongoing fee formula and address expanding housing opportunity as a supplemental or add-on fee. In addition, one commenter—who was supportive of the SARR—still encouraged HUD to also provide supplemental fees for expanding housing and deconcentration efforts, and suggested that HUD should not only compensate PHAs that are successful in location outcomes but also provide supplemental fees to PHAs that make progress on improving locational outcomes for families.

Other commenters noted that the study found that many of the study PHAs lacked the resources to devote such time or staff to expanding housing opportunities. The comments included a suggestion that HUD study the costs of successful MTW mobility programs in order to estimate what an appropriate fee would be to address housing opportunity efforts.

A number of commenters supported the concept of providing supplemental or additional administrative fees to high performing PHAs. It was noted, for instance, that HUD currently provides financial incentives based on performance in the Performance-Based Contract Administration (PBCA) program. It was also suggested, however, that performance incentives should not be part of the fee formula itself, which should simply address the administrative costs of running the program and not be designed to incentivize or drive PHA policy.

## HUD Response

HUD is appreciative of the many comments submitted on the subject of cost drivers and/or incentives for which HUD may wish to consider providing a supplemental or add-on fee in addition to the ongoing administrative fee covered by the formula. The proposed rule includes a section that provides HUD may provide supplemental fees in addition to the ongoing administrative fees. HUD would describe each of these additional fees and how those fees are calculated in a **Federal Register** Notice.

In terms of the supplemental fees proposed for consideration by the study and in light of the cost variables in the fee formula that would be implemented in accordance with this proposed rule, HUD anticipates that it would establish a new additional fee for new homeless admissions from the PHA waiting list. The homeless admissions fee would be a one-time fee equal to 30 percent of the PHA's administrative fee annualized (*i.e.,* the administrative fee multiplied by 12, which the PHA would receive for each homeless new admission reported in PIC. (For example, if a PHA's administrative fee is $70 per UML under the new proposed formula, the PHA would receive a one-time fee of $252 for each homeless new admission reported in PIC.) The average cost of intake, eligibility, and lease-up represents a little over 15 percent of the total cost per voucher leased as determined by the study. The homeless new admission fee roughly doubles that percentage to 30 percent, which would be provided as a separate fee to the PHA in addition to the regular ongoing fee the PHA would earn for the voucher being under lease. This fee would be made in recognition of the additional administrative effort to assist the homeless family both during the admissions and leasing process and during the family's initial transition to permanent housing. The proposed homeless new admissions fee is also intended to mitigate some of the concerns that the households with earned income variable in the proposed formula might inadvertently discourage PHAs from prioritizing the homeless through local admissions preferences.

*Specific solicitation of comment #18:* HUD is specifically seeking comment on the homeless new admissions fee and how it relates to the ongoing administrative fee set forth in this proposed rule. HUD is particularly interested in whether commenters believe the fee amount is appropriate and whether this additional fee would alleviate concerns about the how the households with earned income variable might inadvertently impact homeless admissions.

With regard to additional fees for HUD–VASH, HUD also anticipates that it would establish a policy to provide a one-time fee for new allocations of HUD–VASH vouchers. HUD recognizes that because only two PHAs were in the midst of implementing a new HUD–VASH program at the time of the RMS time data collection, the sample is too small to draw definitive conclusions. However, the time data collection for those two PHAs clearly supports the belief that a new allocation of HUD–VASH vouchers involves a significant amount of additional work for the administering PHA. Furthermore, it is reasonable to conclude that any new allocation of vouchers that requires the PHA to partner with another entity for family referrals (*e.g.,* the family unification program) would similarly require additional administrative effort beyond what the PHA would normally experience in leasing a new allocation of vouchers. These additional administrative fees would be provided at the time that the new allocation of vouchers is obligated to the PHA to provide the PHA with resources to establish or strengthen the partnership with the entity upon which the PHA must rely for the family referrals and any other applicable services. (Note that the fee for a new allocation of HUD–VASH or other vouchers targeted for the homeless would be paid in lieu of, not in addition to, the special fee being contemplated above for assisting homeless families.)

For both the homeless new admissions fee and additional fees for HUD–VASH, HUD is seeking comment on whether providing these supplemental fees would be appropriate in the event that Congressional appropriations for HCV administrative fees are not sufficient to fund the supplemental fees without reducing per unit fees for PHAs overall. Also, HUD is requesting comment on any potential unintended consequences of providing these supplemental fees.

*Specific solicitation of comment #19:* HUD is specifically seeking comment on what amount would be appropriate for this new allocation fee, but is initially thinking that the fee would be equal to 30 percent of the PHA's annualized ongoing administrative fee multiplied by the number of vouchers in the new allocation. (Using the example above, where the PHA's administrative fee is $70 per UML under the new proposed formula, a PHA with a new allocation of 50 HUD–VASH vouchers would receive a one-time fee of $12,600.)

HUD is less certain if additional fees beyond the regular administrative fee should be provided for the ongoing HUD–VASH activities. Although the PHAs in the study reported HUD–VASH vouchers were generally more administratively burdensome than regular vouchers (which is consistent with what many HUD–VASH PHAs have reported to HUD informally over the years), the study's RMS time measurement data was not helpful on this point. In August 2015, HUD sent a letter to all PHAs administering the HUD–VASH program, inviting those agencies to apply for extraordinary administrative fees to cover necessary or extraordinary related expenses that are incurred to increase lease-up success rates or decrease the time it takes for a veteran to locate and move-in to a unit. In order to apply for these funds, the PHA was required to justify and document actions specifically for administering the HUD–VASH program. HUD will review the applications and justifications for these extraordinary administrative funds to identify common activities and costs that would incurred by HUD–VASH PHAs to improve or maintain HUD–VASH leasing rates, and the extent to which this information might help inform the discussion on possible additional fees for ongoing HUD–VASH administration.

*Specific solicitation of comment #20:* HUD is specifically seeking comment on the proposed new allocation fee for HUD–VASH and other voucher allocations that require partnership with another entity for applicant referrals and other services, as well as whether an additional fee for ongoing HUD–VASH administration is warranted and, if so, what would be the appropriate amount and rationale in support of such a fee.

On the basis of the comments regarding homeownership vouchers, HUD would retain the current policy of providing a homeownership fee when a family purchases a home under the HCV homeownership program.

As previously noted (specific solicitation of comment #6), HUD is also considering incentive fees to encourage and support PHAs in their efforts to improve locational outcomes for families, including but not limited to cases where the PHA is project-basing vouchers in areas of opportunity.

*Specific solicitation of comment #21:* As previously discussed in specific solicitation of comment #6, HUD has dropped the SARR indicator but is seeking comment on whether the SARR or some other indicator that would address the variation in administrative cost as it relates to locational outcomes should be reconsidered for inclusion in the core formula. As an alternative approach, HUD is also seeking comment on how to effectively structure an incentive fee for improving locational outcomes of HCV households. For example, HUD could provide a separate fee to a PHA based on the number of families that initially leased in low-poverty areas or that move out of areas with high concentrations of poverty. As discussed earlier, an alternative measure might be the number of families that move from R/ECAPs to less concentrated areas. Other options could include the extent to which the overall percentage of the PHA's families residing in areas with high concentrations of poverty or R/ECAPs decreases from year to year. Both measures would take into consideration the locational outcomes of families that moved out of the PHA's jurisdiction under the portability procedures.

HUD is not inclined to establish an additional fee for PHAs based on their SEMAP score and rating designation at this time. Since HUD is currently in the midst of an effort to revise SEMAP, it is premature for HUD to determine whether or not to provide a performance incentive fee based on the PHA's SEMAP score and how to calculate and structure such a fee if warranted. HUD will revisit this possibility as the SEMAP reform effort progresses.

## VI. This Proposed Rule—Regulatory Structure of New Administrative Fee Formula

This proposed rule would amend HUD's regulations in 24 CFR part 982 that govern Section 8 Tenant-Based Assistance: Housing Choice Vouchers to revise the method for determining the amount of funding a PHA will receive for administering the HCV program.

*Administrative Fee—§ 982.152:* Administrative fees under the HCV program are governed by § 982.152. The ongoing administrative fee provision in § 982.152(b)(1) provides that the amount of the ongoing fee is determined by HUD in accordance with section 8(q)(1) of the 1937 Act (42 U.S.C. 1437f(q)(1). The rule also allows HUD to pay a higher fee for a small program or a program operating over a large geographic area (§ 982.152(b)(2)) and to pay a lower fee for PHA-owned units (§ 982.152(b)(3)).

The proposed rule would revise § 982.152(b)(2) to establish a new, significantly more detailed method for determining the ongoing administrative fee. In addition, the proposed rule would provide that the actual fee formula calculation would be presented in a notice published in the **Federal Register**. If HUD subsequently decides to update the formula coefficient values as the result of changes in program requirements or the availability of data, HUD will publish a notice in the **Federal Register** that describes the proposed change and provides an opportunity for public comment for a period of no less than 60 calendar days. After consideration of public comments, HUD would be required to publish the revised formula coefficient values in a final notice in the **Federal Register** before implementing any changes (§ 982.152(b)(1)(vii)(B)).

*Portability: Administration by initial and receiving PHA—§ 982.355(e)(1).* Under § 982.355(e)(1), the receiving PHA may bill the initial PHA for housing assistance payments and administrative fees. The revised administrative fee formula would eliminate portability billing for administrative fees. Therefore, the proposed rule would eliminate the reference to billing for administrative fees in § 982.355(e)(1). In addition, § 983.355(e)(3) establishes the requirements governing the initial PHA's reimbursement of administrative fees to the receiving PHA. Given the elimination of portability billing for administrative fees, the proposed rule would remove § 983.355(c)(3).

## VII. Findings and Certifications

### Regulatory Planning and Review

OMB reviewed this proposed rule under Executive Order 12866 (entitled "Regulatory Planning and Review"). This rule was determined to be an economically significant regulatory action, as provided in section 3(f)(1) of the Order.

This rule proposes a new methodology for determining the amount of funding a PHA will receive for administering the Housing Choice Voucher (HCV) Program based on six variables that better reflect the costs of administering the program than the current formula. The rule would result in transfers of funding among stakeholders of more than $100 million a year. Approximately $122 million will be transferred between PHAs. The transfer is dependent upon an assumed level of appropriation ($1,642 million) and will vary correspondingly.

The formula will lead to a transfer to PHAs that are: Smaller; whose residents are dispersed more widely; have a higher rate of new admissions and household with labor income; and are located in areas with higher labor costs. The transfer to the PHA will depend on the sum of all of the effects. It is possible that cost-drivers could counter-balance one another. For example, a small PHA in a low-wage area may experience no change in its administrative fees.

The accompanying Regulatory Impact Analysis (RIA) for this rule addresses the costs and benefits that would result if this rule were to be implemented in greater detail than this summary can provide, and can be found in the docket for this rule at *http://www.regulations.gov*. The docket file is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the docket file must be scheduled by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

### Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This rule does not impose any Federal mandate on any state, local, or tribal government or the private sector within the meaning of UMRA.

### Environmental Impact

This proposed rule sets forth the establishment of a rate or cost determination and external administrative procedures related to rate or cost determinations which do not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this proposed rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

### Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The proposed administrative fee formula would apply to all PHAs across the board, including small entities, defined for the purpose of the Regulatory Impact Analysis (RIA) as PHAs that administer fewer than 500 units. The proposed formula provides for an upward fee adjustments for PHAs that administer fewer than 750 units, with the largest adjustment provided to PHAs that administer 250 vouchers or fewer. Using 2014 data, the RIA finds that 1,143 of the 1,521 PHAs with less than 500 units would have a net increase in funding relative to the existing formula, while 378 will have a decrease in funding ($7.9 million) for a net gain of $23.45 million. The $7.9 million decline is relative to an assumed level of funding of $1.642 million, which is based on the proposed formula's calculations using 2014 data (the level of funding required for future years would be different).

Thus, most small PHAs are expected to increase their level of administrative fee funding under the proposed rule relative to the current administrative fee formula. Furthermore, as described in the preamble, the proposed formula sets a lower bound on per unit fees at 95 percent of the previous year's per unit fee, so no PHA would experience a fee decrease of more than 5 percent in a given year. This would affect the 378 small PHAs that would experience a decrease in funding under the new formula—the decrease would be spread over as many years as necessary so that no PHA would experience a decrease of more than 5 percent in any given year.

Finally, the new formula does not impose any additional administrative burden on PHAs, as all the formula inputs come from administrative data already being collected by HUD. For these reasons, HUD has determined that this rule will not have a significant economic impact on a substantial number of small entities.

### Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on State and local governments and is not required by statute or preempts State law, unless the relevant requirements of section 6 of the Executive Order are met. This rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

### Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number for 24 CFR part 982 is 14.871.

## List of Subjects in 24 CFR Part 982

Grant programs—housing and community development, Grant programs—Indians, Indians, Public housing, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, HUD proposes to amend 24 CFR part 982 as follows:

## PART 982—SECTION 8 TENANT-BASED ASSISTANCE: HOUSING CHOICE VOUCHER PROGRAM

■ 1. The authority citation for part 982 continues to read as follows:

**Authority:** 42 U.S.C. 1437f and 3535(d).

■ 2. In § 982.152, paragraph (a)(2) and paragraph (b)(1) are revised to read as follows:

### § 982.152 Administrative fee.

(a) * * *

(2) Administrative fees may only be paid from amounts appropriated by the Congress.

* * * * *

(b) *Ongoing administrative fee.* (1) The PHA ongoing administrative fee is paid for each unit under HAP Contract on the first day of the month. The amount of the ongoing administrative fee is determined annually by HUD based on the most recent available data for the cost factors listed in this paragraph (b) at the time of fee calculation and will be published in the **Federal Register** consistent with the requirements of section 8(q)(1)(C) of the 1937 Act (42 U.S.C. 1437f(q)(1)(C)).

(i) *Formula cost factors used to calculate fee.* The formula for determining the ongoing administrative fee for each PHA is based on the following cost factors:

(A) *PHA program size.* The PHA size is determined by the number of vouchers under lease. The number of vouchers under lease includes vouchers under lease that the PHA is administering on behalf of other PHAs as the receiving PHA under the portability procedures. The number of vouchers under lease does not include any vouchers under lease for which the PHA is the initial PHA under the portability procedures and is billing the receiving PHA (those vouchers are counted as part of the receiving PHA's vouchers under lease).

(B) *Wage index.* The wage index is the average annual wage for local government workers in the area where the PHA's headquarters is located, divided by the national average annual wage for local government workers.

(C) *Benefit load.* The benefit load is the average employee benefits as a percentage of salary paid to PHA employees working on the HCV program in the State in which the PHA is located.

(D) *Percent of households with earned income.* The percent of households with earned income is the percent of the PHA's active HCV households that had any income from employment as of their most recent recertification.

(E) *New admissions rate.* The new admissions rate is the percent of the PHA's active HCV households that were new admissions to the program.

(F) *Percent of voucher holders living more than 60 miles from the PHA's headquarters.* The percent of the PHA's active households living more than 60 miles away from the PHA's headquarters, where distance is calculated as the shortest distance between two points.

(G) *Additional factors.* Any additional factors established by HUD in accordance with paragraph (b)(1)(viii) of this section.

(ii) *Fee ceiling and floor adjustments.* The administrative fee will be adjusted if necessary to stay within maximum and minimum administrative fee amounts determined by HUD. For PHAs outside the U.S. Territories, the maximum ongoing administrative fee is based on $109, adjusted for inflation, and the minimum ongoing administrative fee is based on $42, adjusted for inflation. For PHAs in the U.S. Territories, the maximum ongoing administrative fee is based on $109, adjusted for inflation, and the minimum ongoing administrative fee is based on $54, adjusted for inflation. The ongoing administrative fee ceiling and floor amounts will be adjusted annually for inflation in accordance with paragraph (b)(1)(iii) of this section.

(iii) *Inflation factor.* An inflation factor will be used to account for inflation that has taken place between 2013, when the ongoing administrative fee formula's cost drivers were measured, and the point in time at which amount of the ongoing administrative fee is determined annually by HUD. The inflation factor is a blended rate, where 70 percent of the inflation rate captures changes in the cost of local government employee salaries and wages and 30 percent captures changes in the general cost of goods and services.

(iv) *Fee amount.* The ongoing administrative fee amount is determined for each PHA using the most recent available data for the formula cost factors and the ceiling and floor adjustments, in accordance with paragraphs (b)(1)(i) and (ii) of this section and multiplied by the annual inflation factor in accordance with paragraph (b)(1)(iii) of this section.

(v) *Restrictions on year-to-year changes in fee amount.* The amount by which a PHA's ongoing administrative fee may increase or decrease from the previous year under the formula is restricted as follows:

(A) The ongoing administrative fee for a PHA may not exceed 140 percent of the PHA's ongoing administrative fee for the previous year, adjusted for inflation.

(B) The ongoing administrative fee for a PHA may not be lower than 95 percent of the PHA's ongoing administrative fee for the previous year, adjusted for inflation.

(C) In the event that administrative fee funding is insufficient, HUD may further reduce the maximum fee increase from the previous year's fee per UML if necessary to limit the reduction in the ongoing administrative fee for PHAs in accordance with paragraph (b)(1)(v)(B) of this section.

(vi) *Portability.* For vouchers under HAP contract that are administered under the portability billing procedures at § 982.355(e), administrative fee payment is as follows:

(A) The receiving PHA is paid 100 percent of its ongoing administrative fee for each unit under HAP contract on the first day of the month; and

(B) The initial PHA is paid an ongoing administrative fee that is equal to 20 percent of the initial PHA's regular ongoing administrative fee for each unit under HAP contract.

(vii) *Fee formula calculation and formula variable coefficient changes.* (A) HUD shall publish the formula calculation used to determine the ongoing administrative fee in a notice in the **Federal Register**. The notice shall include the specific formula variables, the formula variable coefficients, the data collection periods, the fee floor and ceiling values, and the inflator factor used in the calculation of the ongoing administrative fee.

(B) Any subsequent changes to the formula variable coefficients as the result of changes in program requirements or the availability of data will first be proposed in a notice published in the **Federal Register** and will provide an opportunity for public comment of no less than 60 days. After consideration of public comments, HUD will publish the final formula calculation with the revised variable coefficients in a notice in the **Federal Register**.

(viii) *Modifications and supplemental fees.* HUD may modify allocations or provide supplemental administrative fees to address program priorities such as special voucher programs (*e.g.*, the HUD-Veterans Affairs Supportive Housing program), serving homeless households, PHA performance incentives, and expanding housing opportunities. Any modifications or supplemental fees will be published in the **Federal Register**.

* * * * *

■ 3. In § 982.355:

■ a. Revise paragraph (e)(1);

■ b. Remove paragraph (e)(3);

■ c. Redesignate paragraphs (e)(4), (5), (6), and (7), as (e)(3), (4), (5) and (6).

The revision reads as follows:

### § 982.355 Portability: Administration by initial and receiving PHA.

* * * * *

(e) *Portability billing.* (1) To cover assistance for a portable family that was not absorbed in accordance with paragraph (d) of this section, the receiving PHA may bill the initial PHA for the housing assistance payments.

* * * * *

Dated: June 8, 2016.

**Lourdes Castro Ramírez,**

*Principal Deputy Assistant Secretary, Office of Public and Indian Housing.*

[FR Doc. 2016–15682 Filed 7–5–16; 8:45 am]

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## Part III

## The President

Proclamation 9466—To Implement the World Trade Organization Declaration on the Expansion of Trade in Information Technology Products and for Other Purposes

**Federal Register**
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# Presidential Documents

**Title 3—**

**The President**

**Proclamation 9466 of June 30, 2016**

## To Implement the World Trade Organization Declaration on the Expansion of Trade in Information Technology Products and for Other Purposes

**By the President of the United States of America**

**A Proclamation**

1. On July 28, 2015, the United States and other Members of the World Trade Organization (WTO) issued a Declaration on the Expansion of Trade in Information Technology Products (Declaration), which established a framework for eliminating duties on certain information and communication technology products. These products include advanced semiconductors, medical equipment, and a range of audio and video equipment. The Declaration sets forth commitments for immediate or staged elimination of duties on the covered products, expanding on duty-elimination commitments set forth in the 1996 Declaration on Trade in Information Technology Products, which the United States implemented in Proclamation 7011 of June 30, 1997.

2. On December 16, 2015, the United States and other WTO Members issued a Ministerial Declaration in which ministers endorsed the Declaration of July 28, 2015, and acknowledged that the conditions for implementation had been met.

3. Section 111(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3521(b)) authorizes the President to proclaim the modification of any duty or staged rate reduction of any duty set forth in Schedule XX for products in tariff categories that were the subject of reciprocal duty elimination or harmonization negotiations during the Uruguay Round, if the United States agrees to such action in a multilateral negotiation under the auspices of the WTO, and after compliance with the requirements of section 115 of the URAA (19 U.S.C. 3524). The products covered by the Declaration were the subject of reciprocal duty elimination negotiations during the Uruguay Round, and the requirements of section 115 of the URAA have been met.

4. Accordingly, pursuant to section 111(b) of the URAA, I have determined to proclaim modifications to the tariff categories and rates of duty set forth in the Harmonized Tariff Schedule (HTS), as set forth in Annexes I and II to this proclamation.

5. Section 103(a) of the Trade Preferences Extension Act of 2015 (TPEA) (Public Law 114–27) amended section 506B of the Trade Act of 1974 (the "1974 Act") (19 U.S.C. 2466b) and section 103(b)(1) amended section 112(g) of the African Growth and Opportunity Act (AGOA) (19 U.S.C. 3721(g)), to provide that in the case of a beneficiary sub-Saharan African country, duty-free treatment provided under title V of the 1974 Act shall remain in effect through September 30, 2025.

6. Accordingly, pursuant to section 506B of the 1974 Act and section 112(g) of the AGOA, I have determined that general note 16(c) of the HTS is modified by striking "September 30, 2015" and by inserting in lieu thereof "September 30, 2025".

7. Section 103(b)(2) of the TPEA amended section 112(b)(3)(A) of the AGOA (19 U.S.C. 3721(b)(3)(A)) to extend the regional apparel article program and section 103(b)(3) of the TPEA amended section 112(c)(1) of the AGOA

(19 U.S.C. 3721(c)(1)) to extend the third-country fabric program through September 30, 2025.

8. Accordingly, pursuant to sections 112(b)(3)(A) and 112(c)(1) of the AGOA, I have determined that chapter 98, subchapter XIX, U.S. note 2(b) of the HTS is modified by striking "September 30, 2015" where stated in "through the period October 1, 2014 through September 30, 2015" and in "each 1-year period thereafter through September 30, 2015" and by inserting in lieu thereof "September 30, 2025".

9. Section 104(c) of the TPEA authorizes the President to proclaim modifications that may be necessary to add the special tariff treatment symbol "D" in the "Special" subcolumn of the HTS for each article classified under a heading or subheading with the special tariff treatment symbol "A" or "A*" in the "Special" subcolumn of the HTS.

10. Accordingly, pursuant to section 104(c) of the TPEA, I have determined it is necessary to add the special tariff treatment symbol "D" in the HTS as set forth in Annex III to this proclamation.

11. Pursuant to sections 501 and 503(a)(1)(B) of the 1974 Act (19 U.S.C. 2461 and 2463(a)(1)(B)), the President may designate certain articles as eligible for preferential tariff treatment under the Generalized System of Preferences (GSP) when imported from a least-developed beneficiary developing country if, after receiving the advice of the United States International Trade Commission (Commission), the President determines that such articles are not import-sensitive in the context of imports from least-developed beneficiary developing countries.

12. Pursuant to sections 501, 503(a)(1)(B), and 503(b)(5) of the 1974 Act (19 U.S.C. 2461, 2463(a)(1)(b), and 2463(b)(5)), and after receiving advice from the Commission in accordance with section 503(e) of the 1974 Act (19 U.S.C. 2463(e)), I have determined to designate certain articles as eligible articles when imported from a least-developed beneficiary developing country.

13. Pursuant to sections 503(b)(1)(E) and 506A(b)(1) of the 1974 Act (19 U.S.C. 2463(b)(1)(E) and 2466A(b)(1)), the President may designate certain articles as eligible for preferential tariff treatment under the AGOA when the articles are the growth, product, or manufacture of a beneficiary sub-Saharan African country if, after receiving the advice of the Commission, the President determines that such articles are not import-sensitive in the context of imports from beneficiary sub-Saharan African countries.

14. Pursuant to sections 503(b)(1)(E) and 506A(b)(1) of the 1974 Act, and after receiving advice from the Commission in accordance with section 503(e) of the 1974 Act, I have determined to designate certain articles as eligible articles when the articles are the growth, product, or manufacture of a beneficiary sub-Saharan African country.

15. Pursuant to section 503(c)(1) of the 1974 Act (19 U.S.C. 2463(c)(1)), the President may withdraw, suspend, or limit application of the duty-free treatment accorded to specified articles under the GSP when imported from designated beneficiary developing countries.

16. Pursuant to section 503(c)(1) of the 1974 Act, and having considered the factors set forth in sections 501 and 502(c) of the 1974 Act (19 U.S.C. 2462(c)), I have determined to limit the application of duty-free treatment accorded to certain articles from certain beneficiary developing countries.

17. Section 503(c)(2)(A) of the 1974 Act (19 U.S.C. 2463(c)(2)(A)) provides that beneficiary developing countries, except those designated as least-developed beneficiary developing countries or beneficiary sub-Saharan African countries as provided in section 503(c)(2)(D) of the 1974 Act (19 U.S.C. 2463(c)(2)(D)), are subject to competitive need limitations on the preferential treatment afforded under the GSP to eligible articles.

18. Pursuant to section 503(c)(2)(A) of the 1974 Act, I have determined that in 2015 certain beneficiary developing countries exported eligible articles

in quantities exceeding the applicable competitive need limitations, and I therefore terminate the duty-free treatment for such articles from such beneficiary developing countries.

19. Section 503(c)(2)(F)(i) of the 1974 Act (19 U.S.C. 2463(c)(2)(F)(i)) provides that the President may disregard the competitive need limitation provided in section 503(c)(2)(A)(i)(II) of the 1974 Act (19 U.S.C. 2463(c)(2)(A)(i)(II)) with respect to any eligible article from any beneficiary developing country if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year does not exceed an amount set forth in section 503(c)(2)(F)(ii) of the 1974 Act (19 U.S.C. 2463(c)(2)(F)(ii)).

20. Pursuant to section 503(c)(2)(F)(i) of the 1974 Act, I have determined that the competitive need limitation provided in section 503(c)(2)(A)(i)(II) of the 1974 Act should be disregarded with respect to certain eligible articles from certain beneficiary developing countries.

21. Section 503(d)(1) of the 1974 Act (19 U.S.C. 2463(d)(1)) provides that the President may waive the application of the competitive need limitations in section 503(c)(2) of the 1974 Act (19 U.S.C. 2463(c)(2)) with respect to any eligible article from any beneficiary developing country if certain conditions are met.

22. Pursuant to section 503(d)(1) of the 1974 Act, I have received the advice of the Commission on whether any industry in the United States is likely to be adversely affected by waivers of the competitive need limitations provided in section 503(c)(2) of the 1974 Act, and I have determined, based on that advice and on the considerations described in sections 501 and 502(c) of the 1974 Act and after giving great weight to the considerations in section 503(d)(2) of the 1974 Act (19 U.S.C. 2463(d)(2)), that such waivers are in the national economic interest of the United States. Accordingly, I have determined that the competitive need limitations of section 503(c)(2) of the 1974 Act should be waived with respect to certain eligible articles from certain beneficiary developing countries.

23. Section 604 of the 1974 Act (19 U.S.C. 2483) authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, and of other Acts affecting import treatment, and actions thereunder, including removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to section 111(b) of the URAA, section 506B of the 1974 Act, sections 112(g), 112(b)(3)(A), and 112(c)(1) of the AGOA, section 104(c) of the TPEA, and title V and section 604 of the 1974 Act, do proclaim that:

(1) In order to provide for the immediate or staged elimination of duties on the information technology products covered by the Declaration, the HTS is modified as set forth in Annexes I and II to this proclamation;

(2) In order to provide that duty-free treatment provided under the AGOA shall remain in effect through September 30, 2025, general note 16(c) of the HTS is modified by striking "September 30, 2015" and by inserting in lieu thereof "September 30, 2025";

(3) In order to provide that the regional apparel article program and the third-country fabric program are effective through September 30, 2025, chapter 98, subchapter XIX, U.S. note 2 of the HTS is modified by striking "September 30, 2015" where stated in "through the period October 1, 2014 through September 30, 2015" and in "each 1-year period thereafter through September 30, 2015" and by inserting in lieu thereof "September 30, 2025";

(4) In order to provide for the addition of the special tariff treatment symbol "D" in the "Special" subcolumn where necessary in the HTS, the HTS is modified as set forth in Annex III to this proclamation;

(5) In order to designate certain articles as eligible articles only when imported from a least-developed beneficiary developing country for purposes of the GSP, the Rates of Duty 1-Special subcolumn for the corresponding HTS subheadings is modified as set forth in Annex IV to this proclamation;

(6) In order to designate certain articles as eligible articles only when imported from a beneficiary sub-Saharan African country for purposes of the AGOA, the Rates of Duty 1 Special subcolumn for the corresponding HTS subheadings is modified as set forth in Annex IV to this proclamation;

(7) In order to provide that one or more countries should no longer be treated as beneficiary developing countries with respect to one or more eligible articles for purposes of the GSP, the Rates of Duty 1-Special subcolumn for the corresponding HTS subheadings and general note 4(d) to the HTS are modified as set forth in sections A and B of Annex V to this proclamation;

(8) The modifications to the HTS set forth in Annex V to this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the dates set forth in the relevant sections of Annex V to this proclamation;

(9) The competitive need limitation provided in section 503(c)(2)(A)(i)(II) of the 1974 Act is disregarded with respect to the eligible articles in the HTS subheadings and to the beneficiary developing countries listed in Annex VI to this proclamation, effective July 1, 2016;

(10) A waiver of the application of section 503(c)(2) of the 1974 Act shall apply to the articles in the HTS subheadings and to the beneficiary developing countries set forth in Annex VII to this proclamation, effective July 1, 2016; and

(11) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of June, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and fortieth.

Billing code 3295–F6–P

# ANNEX I
# MODIFICATIONS TO THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after July 1, 2016, the Harmonized Tariff Schedule of the United States (HTS) is modified as provided herein, with the language in tabular format inserted in the HTS columns entitled "Heading/Subheading", "Article Description", "Rates of Duty 1-General", "Rates of Duty 1-Special", and "Rates of Duty 2", respectively.

1. Subheadings 3215.11.00 and 3215.19.00 are deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [3215 | Printing ink,...:] | | | |
| | [Printing ink:] | | | |
| "3215.11 | Black: | | | |
| | Solid: | | | |
| 3215.11.10 | In engineered shapes, for insertion into apparatus of subheadings 8443.31, 8443.32 or 8443.39............... | [See annex II] | Free (A,AU,BH,CA,CL,CO,E,IL,JO,KR,MA,MX,OM,P,PA,PE,SG) | 10% |
| 3215.11.30 | Other............................................... | 1.8% | Free (A,AU,BH,CA,CL,CO,E,IL,JO,KR,MA,MX,OM,P,PA,PE,SG) | 10% |
| 3215.11.90 | Other............................................................ | 1.8% | Free (A,AU,BH,CA,CL,CO,E,IL,JO,KR,MA,MX,OM,P,PA,PE,SG) | 10% |
| 3215.19 | Other: | | | |
| | Solid: | | | |
| 3215.19.10 | In engineered shapes, for insertion into apparatus of subheadings 8443.31, 8443.32 or 8443.39............... | [See annex II] | Free (A,AU,BH,CA,CL,CO,E,IL,JO,KR,MA,MX,OM,P,PA,PE,SG) | 10% |
| 3215.19.30 | Other............................................... | 1.8% | Free (A,AU,BH,CA,CL,CO,E,IL,JO,KR,MA,MX,OM,P,PA,PE,SG) | 10% |
| 3215.19.90 | Other............................................................ | 1.8% | Free (A,AU,BH,CA,CL,CO,E,IL,JO,KR,MA,MX,OM,P,PA,PE,SG) | 10%" |

**2. Subheading 3506.91.00 is deleted and the following new provisions are inserted in lieu thereof:**

| | | | | |
|---|---|---|---|---|
| [3506 | Prepared glues...:] | | | |
| | [Other:] | | | |
| "3506.91 | Adhesives based on polymers of headings 3901 to 3913 or on rubber: | | | |
| 3506.91.10 | Optically clear free-film adhesives and optically clear curable liquid adhesives of a kind used solely or principally for the manufacture of flat panel displays or touch-sensitive screen panels................................ | [See annex II] | Free (A,AU,BH, CA,CL,CO,E,IL, JO,KR,MA,MX, OM,P,PA,PE,SG) | 20% |
| 3506.91.50 | Other........................................................ | 2.1% | Free (A,AU,BH, CA,CL,CO,E,IL, JO,KR,MA,MX, OM,P,PA,PE,SG) | 20%" |

**3(a). Subheading 3907.99.01 is deleted and the following new provisions are inserted in lieu thereof:**

| | | | | |
|---|---|---|---|---|
| [3907 | Polyacetals,...:] | | | |
| | [Other polyesters:] | | | |
| "3907.99 | Other: | | | |
| 3907.99.20 | Thermoplastic liquid crystal aromatic polyester copolymers.................................. | [See annex II] | Free (A,AU,BH, CA,CL,CO,E,IL, JO,MA,MX,OM, P,PA,PE,SG)<br>3.2% (KR) | 15.4¢ + 45% |
| 3907.99.50 | Other........................................................ | 6.5% | Free (A,AU,BH, CA,CL,CO,E,IL, JO,MA,MX,OM, P,PA,PE,SG)<br>3.2% (KR) | 15.4¢ + 45%" |

**(b) The duty rates in the "Rates of Duty 1-Special" subcolumn followed by the symbol "(KR)" for subheadings 3907.99.20 and 3907.99.50 shall each be deleted at the close of December 31 on each of the following years, and the rate of duty set forth opposite each such year shall be inserted effective for goods of Korea in lieu thereof in each such subheading:**

| | |
|---|---|
| 2017 | 2.6% |
| 2018 | 1.9% |
| 2019 | 1.3% |
| 2020 | 0.6% |
| 2021 | Free |

4(a). Subheading 3923.10.00 is deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [3923 | Articles...:] | | | |
| "3923.10 | Boxes, cases, crates and similar articles: | | | |
| 3923.10.20 | Specially shaped or fitted for the conveyance or packing of semiconductor wafers, masks or reticles of subheadings 3923.10 or 8486.90........... | [See annex II] | Free (A,AU,BH, CA,CL,CO,E,IL, JO,MA,MX,OM, P,PA,PE,SG)<br>1.5% (KR) | 80% |
| 3923.10.90 | Other.............................................................................. | 3% | Free (A,AU,BH, CA,CL,CO,E,IL, JO,MA,MX,OM, P,PA,PE,SG)<br>1.5% (KR) | 80%" |

(b) The duty rates in the "Rates of Duty 1-Special" subcolumn followed by the symbol "(KR)" for subheadings 3923.10.20 and 3923.10.90 shall each be deleted at the close of December 31 on each of the following years, and the rate of duty set forth opposite each such year shall be inserted effective for goods of Korea in lieu thereof in each such subheading:

| | |
|---|---|
| 2017 | 1.2% |
| 2018 | 0.9% |
| 2019 | 0.6% |
| 2020 | 0.3% |
| 2021 | Free |

5. Chapter 84 is modified by inserting in numerical sequence the following new additional U.S. note 5:

"5. For purposes of this chapter, the expression "goods described in additional U.S. note 5 to this chapter" are multi-component integrated circuits (MCOs), comprising a combination of one or more monolithic, hybrid, and/or multi-chip integrated circuits with at least one of the following components: silicon-based sensors, actuators, oscillators, resonators or combinations thereof, or components performing the functions of articles classifiable under heading 8532, 8533, 8541, or inductors classifiable under heading 8504, formed to all intents and purposes indivisibly into a single body like an integrated circuit, as a component of a kind used for assembly onto a printed circuit board (PCB) or other carrier, through the connecting of pins, leads, balls, lands, bumps, or pads.

For the purpose of this definition :

1. "Components" may be discrete, manufactured independently then assembled onto the rest of the MCO, or integrated into other components.

2. "Silicon based" means built on a silicon substrate, or made of silicon materials, or manufactured onto integrated circuit die.

3. (a) "Silicon based sensors" consist of microelectronic and/or mechanical structures that are created in the mass or on the surface of a semiconductor and that have the function of detecting physical or chemical quantities and transducing these into electric signals, caused by resulting variations in electric properties or displacement of a mechanical structure. "Physical or chemical quantities" relates to real world phenomena, such as pressure, acoustic waves, acceleration, vibration, movement, orientation, strain, magnetic field strength, electric field strength, light, radioactivity, humidity, flow, chemicals concentration, etc.

(b) "Silicon based actuators" consist of microelectronic and mechanical structures that are created in the mass or on the surface of a semiconductor and that have the function of converting electrical signals into physical movement.

(c) "Silicon based resonators" are components that consist of microelectronic and/or mechanical structures that are created in the mass or on the surface of a semiconductor and have the function of generating a mechanical or electrical oscillation of a predefined frequency that depends on the physical geometry of these structures in response to an external input.

(d) "Silicon based oscillators" are active components that consist of microelectronic and/or mechanical structures that are created in the mass or on the surface of a semiconductor and that have the function of generating a mechanical or electrical oscillation of a predefined frequency that depends on the physical geometry of these structures."

6. Subheading 8414.59 is modified by inserting in numerical sequence the following new provision, and by redesignating subheading 8414.59.60 as 8414.59.65:

| | | | | |
|---|---|---|---|---|
| [8414 | Air...:] | | | |
| | [Fans:] | | | |
| [8414.59 | Other:] | | | |
| "8414.59.15 | Fans of a kind used solely or principally for cooling microprocessors, telecommunications apparatus, automatic data processing machines or units of automatic data processing machines...................................... | Free | | 35%" |

7. Subheading 8423.20.00 is deleted and the following new provisions are inserted in numerical sequence:

| | | | | |
|---|---|---|---|---|
| [8423 | Weighing...:] | | | |
| "8423.20 | Scales for continuous weighing of goods on conveyors: | | | |
| 8423.20.10 | Using electronic means for gauging weights.......... | Free | | 45% |
| 8423.20.90 | Other.................................................................. | 2.9% | Free (A,AU,BH,<br>CA,CL,CO,E,IL,<br>JO,KR,MA,MX,<br>OM,P,PA,PE,<br>SG) | 45%" |

8. Subheadings 8423.89.00 and 8423.90.00 are deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [8423 | Weighing....:] | | | |
| | [Other weighing machinery:] | | | |
| "8423.89 | Other: | | | |
| 8423.89.10 | Using electronic means for gauging............. | Free | | 45% |
| 8423.89.90 | Other.......................................................... | 2.9% | Free (A,AU,BH,<br>CA,CL,CO,E,IL,<br>JO,KR,MA,MX,<br>OM,P,PA,PE,<br>SG) | 45% |
| 8423.90 | Weighing machine weights of all kinds; parts of weighing machinery: | | | |
| 8423.90.10 | Parts of weighing machinery using electronic means for gauging weight, excluding parts of machines for weighing motor vehicles............... | Free | | 45% |
| 8423.90.90 | Other.................................................................. | 2.8% | Free (A,AU,BH,<br>CA,CL,CO,E,IL,<br>JO,KR,MA,MX,<br>OM,P,PA,PE,<br>SG) | 45%" |

9. Subheading 8424.89.00 is deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [8424 | Mechanical...:] | | | |
| | [Other appliances:] | | | |
| "8424.89 | Other: | | | |
| 8424.89.10 | Mechanical appliances for projecting, dispersing or spraying, of a kind used solely or principally for the manufacture of printed circuits or printed circuit assemblies............ | Free | | 35% |
| 8424.89.90 | Other.......................................................... | 1.8% | Free (A,AU,B,BH,<br>CA,CL,CO,E,IL,<br>JO,KR,MA,MX,<br>OM,P,PA,PE,SG): | 35%" |

10. Subheading 8456.10.80 is deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [8456 | Machine...:] | | | |
| [8456.10 | Operated...:] | | | |
| | "Other: | | | |
| 8456.10.70 | Of a kind used solely or principally for the manufacture of printed circuits, printed circuit assemblies, parts of heading 8517 or parts of automatic data processing units...... | Free | | 30% |
| 8456.10.90 | Other........................................................ | 2.4% | Free (A,AU,BH, CA,CL,CO,E,IL, JO,KR,MA,MX, OM,P,PA,PE, SG) | 35%" |

11. Subheading 8466.93.95 is deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [8466 | Parts...:] | | | |
| | [Other:] | | | |
| [8466.93 | For...:] | | | |
| | [Other:] | | | |
| | [Other:] | | | |
| | [Other:] | | | |
| | "Other: | | | |
| 8466.93.96 | Parts and accessories of machine tool of subheadings 8456.10, 8456.30, 8457.10, 8458.91, 8459.21, 8459.61 and 8461.50, of a kind used solely or principally for the manufacture of printed circuits, printed circuit assemblies, parts of heading 8517 or parts of automatic data processing machines......................... | Free | | 35% |
| 8466.93.98 | Other................................ | 4.7% | Free (A,AU,BH, CA,CL,CO,E,IL, JO,KR,MA,MX, OM,P,PA,PE,SG) | 35%" |

12. Subheadings 8473.10.20 through 8473.10.90 are deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [8473 | Parts ...:] | | | |
| [8473.10 | Parts...:] | | | |
| "8473.10.01 | Goods described in additional U.S. note 5 to this chapter | Free | | 45% |
| | Other: | | | |
| | Parts: | | | |
| | Of word processing machines: | | | |
| 8473.10.20 | Printed circuit assemblies | Free | | 45% |
| 8473.10.41 | Other | Free | | 45% |
| 8473.10.60 | Other | Free | | 45% |
| 8473.10.90 | Other | Free | | 45%" |

13. Subheadings 8473.40.10 and 8473.40.85 are deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [8473 | Parts ...:] | | | |
| [8473.40 | Parts ...:] | | | |
| "8473.40.01 | Goods described in additional U.S. note 5 to this chapter: | Free | | 35% |
| | Other: | | | |
| 8473.40.10 | Printed circuit assemblies for automatic teller machines of subheading 8472.90.10 | Free | | 35% |
| 8473.40.86 | Other | Free | | 35%" |

14(a). Subheading 8479.89.98 is deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [8479 | Machines...:] | | | |
| | [Other...:] | | | |
| [8479.89 | Other:] | | | |
| "8479.89.92 | Automated electronic component placement machines of a kind used solely or principally for the manufacture of printed circuit assemblies | Free | | 35% |
| 8479.89.94 | Other | 2.5% | Free (A,AU,BH, C,CA,CL,CO,E, IL,JO,MA,MX, OM,P,PA,PE, SG)<br>1.2% (KR) | 35%" |

(b) The duty rate in the "Rates of Duty 1-Special" subcolumn followed by the symbol "(KR)" for subheading 8479.89.94 shall be deleted at the close of December 31 on each of the following years and the rate of duty set forth opposite each such year shall be inserted effective for goods of Korea in lieu thereof:

| | |
|---|---|
| 2017 | 1% |
| 2018 | 0.7% |
| 2019 | 0.5% |
| 2020 | 0.2% |
| 2021 | Free |

15. The following new additional U.S. note 14 is inserted in numerical sequence in chapter 85:

"14. For purposes of this chapter, the expression "goods described in additional U.S. note 14 to this chapter" are multi-component integrated circuits (MCOs), comprising a combination of one or more monolithic, hybrid, and/or multi-chip integrated circuits with at least one of the following components: silicon-based sensors, actuators, oscillators, resonators or combinations thereof, or components performing the functions of articles classifiable under heading 8532, 8533, 8541, or inductors classifiable under heading 8504, formed to all intents and purposes indivisibly into a single body like an integrated circuit, as a component of a kind used for assembly onto a printed circuit board (PCB) or other carrier, through the connecting of pins, leads, balls, lands, bumps, or pads.

For the purpose of this definition :

1. "Components" may be discrete, manufactured independently then assembled onto the rest of the MCO, or integrated into other components.

2. "Silicon based" means built on a silicon substrate, or made of silicon materials, or manufactured onto integrated circuit die.

3. (a) "Silicon based sensors" consist of microelectronic and/or mechanical structures that are created in the mass or on the surface of a semiconductor and that have the function of detecting physical or chemical quantities and transducing these into electric signals, caused by resulting variations in electric properties or displacement of a mechanical structure. "Physical or chemical quantities" relates to real world phenomena, such as pressure, acoustic waves, acceleration, vibration, movement, orientation, strain, magnetic field strength, electric field strength, light, radioactivity, humidity, flow, chemicals concentration, etc.

   (b) "Silicon based actuators" consist of microelectronic and mechanical structures that are created in the mass or on the surface of a semiconductor and that have the function of converting electrical signals into physical movement.

   (c) "Silicon based resonators" are components that consist of microelectronic and/or mechanical structures that are created in the mass or on the surface of a semiconductor and have the function of generating a mechanical or electrical oscillation of a predefined frequency that depends on the physical geometry of these structures in response to an external input.

(d) "Silicon based oscillators" are active components that consist of microelectronic and/or mechanical structures that are created in the mass or on the surface of a semiconductor and that have the function of generating a mechanical or electrical oscillation of a predefined frequency that depends on the physical geometry of these structures."

16. Subheadings 8504.90.20 through 8504.90.95 are deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [8504 | Electrical transformers, ...:] | | | |
| [8504.90 | Parts:] | | | |
| "8504.90.01 | Goods described in additional U.S. note 14 to this chapter | Free | | 35% |
| | Other: | | | |
| | Of power supplies for automatic data processing machines or units thereof of heading 8471; of power supplies for goods of subheading 8443.31 or 8443.32; of power supplies for monitors of subheading 8528.41 or 8528.51 or projectors of subheading 8528.61: | | | |
| 8504.90.20 | Printed circuit assemblies | Free | | 35% |
| 8504.90.41 | Other | Free | | 35% |
| | Other: | | | |
| | Printed circuit assemblies: | | | |
| 8504.90.65 | Of the goods of subheading 8504.40 or 8504.50 for telecommunication apparatus | Free | | 35% |
| 8504.90.75 | Other | [See annex II] | Free (A,AU,B, BH,CA,CL,CO, E,IL,JO,KR,MA, MX,OM,P,PA, PE,SG) | 35% |
| 8504.90.96 | Other: | [See annex II] | Free (A,AU,B, BH,CA,CL,CO, E,IL,JO,KR,MA, MX,OM,P,PA, PE,SG) | 35%" |

17. Subheading 8505.90.80 is deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [8505 | Electromagnets;...:] | | | |
| [8505.90 | Other,...:] | | | |
| "8505.90.70 | Electromagnets of a kind used solely or principally for magnetic resonance imaging apparatus, other than [electromagnets][apparatus] of heading 9018 | Free | | 35% |
| 8505.90.75 | Other | 1.3% | Free (A,AU,B,BH, CA,CL,CO,E,IL, JO,KR,MA,MX, OM,P,PA,PE, SG) | 35%" |

18. Subheading 8514.30.00 is deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [8514 | Industrial...:] | | | |
| "8514.30 | Other furnaces and ovens: | | | |
| 8514.30.10 | Of a kind used solely or principally for the manufacture of printed circuits or printed circuit circuit assemblies | Free | | 35% |
| 8514.30.90 | Other | 1.3% | Free (A,AU,BH, CA,CL,CO,E,IL, JO,KR,MA,MX, OM,P,PA,PE, SG) | 35%" |

19. Subheadings 8518.90.20 through 8518.90.80 are deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [8518 | Microphones ...:] | | | |
| [8518.90 | Parts:] | | | |
| "8518.90.01 | Goods described in additional U.S. note 14 to this chapter........................................................ | Free | | 35% |
| | Other: | | | |
| | Of line telephone handsets of subheading 8518.30.10; of repeaters of subheading 8518.40.10: | | | |
| 8518.90.20 | Printed circuit assemblies of line telephone handsets; parts of repeaters..... | Free | | 35% |
| 8518.90.41 | Other........................................................ | [See annex II] | Free (A,AU,B, BH,CA,CL,CO, E,IL,JO,KR,MA, MX,OM,P,PA, PE,SG) | 35% |
| | Other: | | | |
| 8518.90.60 | Printed circuit assemblies of the articles of subheading 8518.10.40 or 8518.29.40............................................ | Free | | 35% |
| 8518.90.81 | Other........................................................ | [See annex II] | Free (A,AU,B, BH,CA,CL,CO, E,IL,JO,KR,MA, MX,OM,P,PA, PE,SG) | 35%" |

20. Subheadings 8522.90.35, 8522.90.55 and 8522.90.75 and the intervening immediate superior text to subheadings 8522.90.25 and 8522.90.45 are deleted and the following new provisions (including new subheading 8522.90.01) are inserted in numerical sequence:

| | | | | |
|---|---|---|---|---|
| [8522 | Parts...:] | | | |
| [8522.90 | Other:] | | | |
| "8522.90.01 | Goods described in additional U.S. note 14 to this chapter........................................................ | Free | | 35% |
| | Other, comprising assemblies and subassemblies of articles provided for in subheading 8519.81.40, consisting of two or more pieces fastened or joined together:" | | | |
| [8522.90.25 | Printed...] | | | |
| "8522.90.36 | Other........................................................ | [See annex II] | Free (A,AU,B, BH,C,CA,CL,CO, E,IL,J,JO,KR,MA, MX,OM,P,PA, PE,SG) | 35%" |

| | | | | |
|---|---|---|---|---|
| [8522 | Parts...:] | | | |
| [8522.90 | Other:] | | | |
| | Other parts of telephone answering machines: | | | |
| [8522.90.45 | Printed...] | | | |
| "8522.90.58 | Other | Free | | 35%" |
| | [Other:] | | | |
| [8522.90.65 | Printed...] | | | |
| "8522.90.80 | Other | Free | | 35%" |

21. Subheading 8527.21.10 is deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [8527 | Reception...:] | | | |
| | [Radiobroadcast...:] | | | |
| [8527.21 | Combined...:] | | | |
| | "Radio-tape player combinations: | | | |
| 8527.21.15 | Combined with sound recording or reproducing apparatus capable of receiving and decoding digital radio data system signals | Free | | 35% |
| 8527.21.25 | Other | 2% | Free (A,AU,B,BH, CA,CL,CO,E,IL, JO,KR,MA,MX, OM,P,PA,PE, SG) | 35%" |

22. Subheadings 8529.10.20 through 8529.10.90 are deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [8529 | Parts...:] | | | |
| [8529.10 | Antennas and antenna reflectors of all kinds; parts suitable for use therewith:] | | | |
| "8529.10.01 | Goods described in additional U.S. note 14 to this chapter | Free | | 35% |
| | Other: | | | |
| 8529.10.21 | Television | Free | | 35% |
| 8529.10.40 | Radar, radio navigational aid and radio remote control | Free | | 35% |
| 8529.10.91 | Other | [See annex II] | Free (A,AU,B, BH,CA,CL,CO, D,E,IL,JO,KR, MA,MX,OM,P, PA,PE,SG) | 35%" |

**23. Subheading 8529.90 is modified by deleting subheadings 8529.90.01 through 8529.90.97 (other than bracketed language), and by inserting the following new provisions in lieu thereof:**

| | | | | |
|---|---|---|---|---|
| [8529 | Parts...:] | | | |
| [8529.90 | Other:] | | | |
| "8529.90.01 | Goods described in additional U.S. note 14 to this chapter.............. | Free | | 35% |
| | Other:" | | | |
| | [Printed circuit assemblies:] | | | |
| | [Of television apparatus....:] | | | |
| "8529.90.04 | Tuners.............. | [See annex II] | Free (A,AU,B, BH,CA,CL,CO,E, IL,JO,KR,MA, MX,OM,P,PA, PE,SG) | 35% |
| | Other, comprising printed circuit boards and ceramic substrates with components ssembled thereon, for color television receivers; subassemblies containing one or more of such boards or substrates, except tuners or convergence assemblies: | | | |
| 8529.90.05 | Entered with components enumerated in additional U.S. note 14 to this chapter.............. | [See annex II] | Free (A+,AU,B, BH,CA,CL,CO,E, IL,JO,KR,MA, MX,OM,P,PA, PE,SG) | 35% |
| 8529.90.06 | Other.............. | Free | | 35% |
| | Other: | | | |
| 8529.90.09 | For television cameras....... | Free | | 35% |
| 8529.90.13 | Other.............. | [See annex II] | Free (A+,AU,B, BH,CA,CL,CO,E, IL,JO,KR,MA, MX,OM,P,PA, PE,SG): | 35% |

| | | | | |
|---|---|---|---|---|
| [8529 | Parts...:] | | | |
| [8529.90 | Other:] | | | |
| | [Other:] | | | |
| | [Printed...:] | | | |
| | Of radar, radio navigational air or radio remote control apparatus: | | | |
| 8529.90.16 | Assemblies and subassemblies, consisting of 2 or more parts or pieces fastened or joined together......... | Free | | 35% |
| 8529.90.19 | Other.......................................... | [See annex II] | Free (A,AU,BH, C,CA,CL,CO,E,IL, JO,KR,MA,MX, OM,P,PA,PE,SG) | 35% |
| 8529.90.22 | Other.................................................. | Free | | 35% |
| 8529.90.24 | Other, comprising transceiver assemblies for the apparatus of subheading 8526.10, other than printed circuit assemblies..................... | [See annex II] | Free (A,AU,BH, C,CA,CL,CO,E,IL, JO,KR,MA,MX, OM,P,PA,PE,SG) | 35% |
| | Parts of television receivers specified in additional U.S. note 9 to this chapter, other than printed circuit assemblies: | | | |
| 8529.90.29 | Tuners.................................................. | Free | | 35% |
| | Subassemblies, for color television receivers, containing two or more printed circuit boards or ceramic substrates with components assembled thereon, except tuners or convergence assemblies: | | | |
| 8529.90.33 | Entered with components enumerated in additional U.S. note 4 to this chapter ........ | Free | | 35% |
| 8529.90.36 | Other.......................................... | Free | | 35% |
| 8529.90.39 | Other.................................................. | [See annex II] | Free (A+,AU,B, BH,CA,CL,CO,D, E,IL,JO,KR,MA, MX,OM,P,PA, PE,SG) | 35% |

| | | | | |
|---|---|---|---|---|
| {8529 | Parts...:] | | | |
| [8529.90 | Other:] | | | |
| | [Other:] | | | |
| | Combinations of parts specified in additional U.S. note 9 to this chapter: | | | |
| | Subassemblies, for color television receivers, containing two or more printed circuit boards or ceramic substrates with components assembled thereon, except tuners or convergence assemblies: | | | |
| 8529.90.43 | Entered with components enumerated in additional U.S. note 4 to this chapter........... | Free | | 35% |
| 8529.90.46 | Other.......................................... | Free | | 35% |
| 8529.90.49 | Other.................................................. | [See annex II] | Free (A+,AU,B, BH,CA,CL,CO,D, E,IL,JO,KR,MA, MX,OM,P,PA, PE,SG) | 35% |
| 8529.90.53 | Flat panel screen assemblies for the apparatus of subheadings 8528.59.15, 8528.59.21, 8528.59.23, 8528.59.25, 8528.59.31, 8528.59.33, 8528.69.35, 8525.69.40, 8528.69.45, 8528.69.50, 8528.72.62, 8528.72.64, 8528.72.68 and 8528.72.72................................................ | [See annex II] | Free (A+,AU,B, BH,CA,CL,CO,D, E,IL,JO,KR,MA, MX,OM,P,PA, PE,SG) | 35% |
| | Other, parts of printed circuit assemblies, including face plates and lock latches: | | | |
| | Of television apparatus: | | | |
| 8529.90.63 | For television cameras................ | Free | | 35% |
| 8529.90.68 | Other.......................................... | [See annex II] | Free (A+,AU,B, BH,CA,CL,CO,D, E,IL,JO,KR,MA, MX,OM,P,PA, PE,SG) | 35% |
| 8529.90.73 | Of radar, radio navigational aid or radio remote control apparatus........... | Free | | 35% |
| 8529.90.75 | Other................................................. | Free | | 35% |

| | | | | |
|---|---|---|---|---|
| [8529 | Parts...:] | | | |
| [8529.90 | Other:] | | | |
| | [Other:] | | | |
| | Other parts of articles of headings 8525 and 8527: | | | |
| | Of television apparatus: | | | |
| | For television cameras: | | | |
| 8529.90.78 | Mounted lenses suitable for use in, and entered separately from, closed-circuit television cameras, with or without attached electrical or non-electrical closed-circuit television camera connectors, and with or without attached motors.............................. | Free | | 35% |
| 8529.90.81 | Other................................ | [See annex II] | Free (A,AU,BH, CA,CL,CO,E,IL, JO,KR,MA,MX, OM,P,PA,PE,SG): | 35% |
| 8529.90.83 | Other........................................ | [See annex II] | Free (A+,AU,B, BH,CA,CL,CO,D, E,IL,JO,KR,MA, MX,OM,P,PA, PE,SG) | 35% |
| 8529.90.86 | Other................................................ | Free | | 35% |
| | Other: | | | |
| | Of television receivers: | | | |
| | Subassemblies, for color television receivers, containing two or more printed circuit boards or ceramic substrates with components assembled thereon, except tuners or convergence assemblies: | | | |
| 8529.90.88 | Entered with components enumerated in additional U.S. note 4 to this chapter.. | Free | | 35% |
| 8529.90.89 | Other................................ | Free | | 35% |
| 8529.90.93 | Other........................................ | [See annex II] | Free(A+,AU,B, BH,CA,CL,CO,E, IL,JO,KR,MA,MX, OM,P,PA,PE,SG): | 35% |

| | | | | |
|---|---|---|---|---|
| 8529 | Parts...:] | | | |
| [8529.90 | Other:] | | | |
| | [Other:] | | | |
| | [Other:] | | | |
| | Of radar, radio navigational aid or radio remote control apparatus: | | | |
| 8529.90.95 | Assemblies and subassemblies, consisting of 2 or more parts or pieces fastened or joined together...................................... | [See annex II] | Free (A,AU,BH, CA,CL,CO,E,IL, JO,KR,MA,MX, OM,P,PA,PE,SG) | 35% |
| 8529.90.97 | Other........................................ | [See annex II] | Free (A,AU,BH, CA,CL,CO,E,IL, JO,KR,MA,MX, OM,P,PA,PE,SG) | 35% |
| 8529.90.99 | Other................................................... | Free | | 35%" |

24. Subheadings 8531.80.00 through 8531.90.90 (except 8531.90) are deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [8531 | Electric...:] | | | |
| "8531.80 | Other apparatus: | | | |
| 8531.80.15 | Doorbells, chimes, buzzers and similar apparatus... | 1.3% | Free (A,AU,B, BH,C,CA,CL,CO, E,IL,JO,KR,MA, MX,OM,P,PA, PE,SG) | 35% |
| 8531.80.90 | Other................................................................ | [See annex II] | Free (A,AU,B, BH,C,CA,CL,CO, E,IL,JO,KR,MA, MX,OM,P,PA, PE,SG) | 35%" |
| [8531.90 | Parts:] | | | |
| "8531.90.01 | Goods described in additional U.S. note 14 to this chapter.................................................................. | Free | | 35% |
| | Other: | | | |
| | Printed circuit assemblies: | | | |
| 8531.90.15 | Of the panels of subheading 8531.20... | Free | | 35% |
| 8531.90.30 | Other.................................................... | [See annex II] | Free (A,AU,B, BH,CA,CL,CO, E,IL,JO,KR,MA, MX,OM,P,PA, PE,SG) | 35% |
| | Other: | | | |
| 8531.90.75 | Of the panels of subheading 8531.20... | Free | | 35% |
| 8531.90.90 | Other.................................................... | [See annex II] | Free (A,AU,B, BH,CA,CL,CO, E,IL,JO,KR,MA, MX,OM,P,PA, PE,SG) | 35%" |

25. Subheading 8536.90.80 is deleted and the following new subheadings are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [8536 | Electrical...:] | | | |
| [8536.90 | Other apparatus:] | | | |
| "8536.90.60 | Battery clamps of a kind used in motor vehicles of heading 8702, 8703, 8704 or 8711........ | 2.7% | Free (A,AU,B, BH,CA,CL,CO,E, IL,JO,KR,MA, MX,OM,P,PA, PE,SG) | 35% |
| 8536.90.85 | Other................................................................ | [See annex II] | Free (A,AU,B, BH,CA,CL,CO,E, IL,JO,KR,MA, MX,OM,P,PA, PE,SG) | 35%" |

26. Subheading 8537.10.90 is deleted and the following new subheadings are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [8537 | Boards,...:] | | | |
| [8537.10 | For...:] | | | |
| | "Other: | | | |
| 8537.10.80 | Touch-sensitive data input devices (so-called "touch screens") without display capabilities, for incorporation into apparatus having a display, which function by detecting the presence and location of a touch within the display area (such sensing may be obtained by means of resistance, electrostatic capacity, acoustic pulse recognition, infra-red lights or other touch-sensitive technology)............................................ | {See annex II] | Free (A,AU,B,BH,CA,CL,CO,E,IL,JO,KR,MA,MX,OM,P,PA,PE,SG) | 35% |
| 8537.10.91 | Other.................................................... | 2.7% | Free (A,AU,B,BH,CA,CL,CO,E,IL,JO,KR,MA,MX,OM,P,PA,PE,SG) | 35%" |

27. Subheadings 8538.90.10 through 8538.90.80 are deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [8538 | Parts...:] | | | |
| 8538.90 | Other:] | | | |
| "8538.90.01 | Goods described in additional U.S. note 14 to this chapter...................... | Free | | 35% |
| | Other: | | | |
| | Printed circuit assemblies: | | | |
| 8538.90.10 | Of an article of heading 8537 for one of the articles described in additional U.S. note 11 to chapter 85.................. | Free | | 35% |
| 8538.90.30 | Other .................................................. | 3.5% | Free (A,AU,B, BH,CA,CL,CO, E,IL,JO,KR,MA, MX,OM,P,PA, PE,SG) | 35% |
| 8538.90.40 | Other, for the articles of subheading 8535.90.40, 8536.30.40 or 8536.50.40, of ceramic or metallic materials, electrically or mechanically reactive to changes in temperature ............................................... | 3.5% | Free (A,AU,B, BH,CA,CL,CO, E,IL,JO,KR,MA, MX,OM,P,PA, PE,SG) | 35% |
| | Other: | | | |
| 8538.90.60 | Molded parts........................................ | 3.5% | Free (A,AU,B, BH,CA,CL,CO, E,IL,JO,KR,MA, MX,OM,P,PA, PE,SG) | 35% |
| 8538.90.81 | Other.................................................. | 3.5% | Free (A,AU,B, BH,CA,CL,CO, E,IL, JO,KR, MA,MX,OM,P, PA,PE,SG) | 35%" |

28. Subheading 8539.39.00 is deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [8539 | Electrical...:] | | | |
| | [Discharge...:] | | | |
| "8539.39 | Other: | | | |
| 8539.39.10 | Cold-cathode fluorescent lamps (CCFLs) for backlighting of flat panel displays................ | Free | | 20% |
| 8539.39.90 | Other.......................................................... | 2.4% | Free (A,AU,BH, CA,CL,CO,E,IL, JO,KR,MA,MX, OM,P,PA,PE, SG) | 20%" |

29. Subheading 8543.30.00 is deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [8543 | Electrical...:] | | | |
| "8543.30 | Machines and apparatus for electroplating, electrolysis or electrophoresis: | | | |
| 8543.30.20 | Of a kind used solely or principally for the manufacture of printed circuits.................................... | [See annex II] | Free (A,AU,BH, CA,CL,CO,E,IL, JO,KR,MA,MX, OM,P,PA,PE,SG) | 35% |
| 8543.30.90 | Other..................................................................... | 2.6% | Free (A,AU,BH, CA,CL,CO,E,IL, JO,KR,MA,MX, OM,P,PA,PE, SG) | 35%" |

30. Subheadings 8543.70.40, 8543.70.93 and 8543.70.96 are deleted and the following new provisions are inserted in lieu thereof in numerical sequence:

| | | | | |
|---|---|---|---|---|
| [8543 | Electrical...:] | | | |
| [8543.70 | Other...:] | | | |
| | "Electric synchros and transducers; flight data recorders; defrosters and demisters with electric resistors for aircraft: | | | |
| 8543.70.42 | Flight data recorders.................................. | [See annex II] | Free (A,AU,BH, CA,CL,CO,E,IL, JO,KR,MA,MX, OM,P,PA,PE,SG) | 35% |
| 8543.70.45 | Other........................................................ | 2.6% | Free (A,AU,BH, CA,CL,CO,E,IL, JO,KR,MA,MX, OM,P,PA,PE,SG) | 35%" |

| | | | | |
|---|---|---|---|---|
| [8543 | Electrical...:] | | | |
| [8543.70 | Other...:] | | | |
| | [Other:] | | | |
| | [Other:] | | | |
| [8543.70.85 | For...] | | | |
| "8543.70.87 | Electrical machines with translation or dictionary functions; flat panel displays other than for articles of heading 8528, except for subheadings 8528.51 or 8528.61; video game console controllers which use infrared transmissions to operate or access the various functions and capabilities of the consoles............ | Free | | 35% |
| 8543.70.89 | Portable battery operated electronic readers for recording and reproducing text, still images or audio files............. | [See annex II] | Free (A,AU,B, BH,CA,CL,CO,E, IL,JO,MA,MX, OM,P,PA,PE,SG) | 35% |
| 8543.70.91 | Digital signal processing apparatus apparatus capable of connecting to a wired or wireless network for the mixing of sound................................. | [See annex II] | Free (A,AU,B, BH,CA,CL,CO,E, IL,JO,MA,MX, OM,P,PA,PE,SG) | 35% |
| 8543.70.93 | Portable interactive electronic education devices primarily designed for children....................................... | Free | | 35% |
| 8543.70.95 | Touch-sensitive data input devices (so-called "touch screens") without display capabilities, for incorporation into apparatus having a display, which function by detecting the presence and location of a touch within the display area (such sensing may be obtained by means of resistance, electrostatic capacity, acoustic pulse pulse recognition, infra-red lights or other touch-sensitive technology... | [See annex II] | Free (A,AU,B, BH,CA,CL,CO,E, IL,JO,KR,MA,MX, OM,P,PA,PE,SG) | 35% |

| | | | | |
|---|---|---|---|---|
| [8543 | Electrical...:] | | | |
| [8543.70 | Other...:] | | | |
| | [Other:] | | | |
| | [Other:] | | | |
| 8543.70.97 | Plasma cleaner machines that remove organic contaminants from electron microscopy specimens and specimen holders.............................................. | [See annex II] | Free (A,AU,B,BH,CA,CL,CO,E,IL,JO,KR,MA,MX,OM,P,PA,PE,SG) | 35% |
| 8543.70.99 | Other.................................................. | 2.6% | Free (A,AU,B,BH,CA,CL,CO,E,IL,JO,KR,MA,MX,OM,P,PA,PE,SG) | 35%" |

31. Subheadings 8543.90.11 through 8543.90.88 are deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [8543 | Electrical ...:] | | | |
| [8543.90 | Parts:] | | | |
| "8543.90.01 | Goods described in additional U.S. note 14 to this chapter.......................................................... | Free | | 35% |
| | Other: | | | |
| 8543.90.12 | Of physical vapor deposition apparatus of subheading 8543.70...................................... | Free | | 35% |
| | Assemblies and subassemblies for flight data recorders, consisting of two or more parts or pieces fastened or joined together: | | | |
| 8543.90.15 | Printed circuit assemblies..................... | Free | | 35% |
| 8543.90.35 | Other ................................................. | Free | | 35% |
| | Other: | | | |
| | Printed circuit assemblies: | | | |
| 8543.90.65 | Of flat panel displays other than articles of heading 8528, except for subheadings 8528.51 or 8528.61.................................. | Free | | 35% |
| 8543.90.68 | Other .......................................... | [See annex II] | Free (A,AU,B,BH,CA,CL,CO,E,IL,JO,KR,MA,MX OM,P,PA,PE,SG) | 35% |

| | | | | |
|---|---|---|---|---|
| 8543 | Electrical ...:] | | | |
| [8543.90 | Parts:] | | | |
| | [Other:] | | | |
| | [Other:] | | | |
| | Other: | | | |
| 8543.90.85 | Of flat panel displays other than articles of heading 8528, except for subheadings 8528.51 or 8528.61...................................... | Free | | 35% |
| 8543.90.88 | Other........................................ | [See annex II] | Free (A,AU,B, BH,CA,CL,CO, E,IL,JO,KR,MA, MX OM,P,PA, PE,SG) | 35%" |

32. The following new additional U.S. note 5 is inserted in numerical sequence in chapter 90:

"5. For purposes of this chapter, the expression "goods described in additional U.S. note 5 to this chapter" are multi-component integrated circuits (MCOs), comprising a combination of one or more monolithic, hybrid, and/or multi-chip integrated circuits with at least one of the following components: silicon-based sensors, actuators, oscillators, resonators or combinations thereof, or components performing the functions of articles classifiable under heading 8532, 8533, 8541, or inductors classifiable under heading 8504, formed to all intents and purposes indivisibly into a single body like an integrated circuit, as a component of a kind used for assembly onto a printed circuit board (PCB) or other carrier, through the connecting of pins, leads, balls, lands, bumps, or pads.

For the purpose of this definition :

1. "Components" may be discrete, manufactured independently then assembled onto the rest of the MCO, or integrated into other components.

2. "Silicon based" means built on a silicon substrate, or made of silicon materials, or manufactured onto integrated circuit die.

3. (a) "Silicon based sensors" consist of microelectronic and/or mechanical structures that are created in the mass or on the surface of a semiconductor and that have the function of detecting physical or chemical quantities and transducing these into electric signals, caused by resulting variations in electric properties or displacement of a mechanical structure. "Physical or chemical quantities" relates to real world phenomena, such as pressure, acoustic waves, acceleration, vibration, movement, orientation, strain, magnetic field strength, electric field strength, light, radioactivity, humidity, flow, chemicals concentration, etc.

   (b) "Silicon based actuators" consist of microelectronic and mechanical structures that are created in the mass or on the surface of a semiconductor and that have the function of converting electrical signals into physical movement.

(c) "Silicon based resonators" are components that consist of microelectronic and/or mechanical structures that are created in the mass or on the surface of a semiconductor and have the function of generating a mechanical or electrical oscillation of a predefined frequency that depends on the physical geometry of these structures in response to an external input.

(d) "Silicon based oscillators" are active components that consist of microelectronic and/or mechanical structures that are created in the mass or on the surface of a semiconductor and that have the function of generating a mechanical or electrical oscillation of a predefined frequency that depends on the physical geometry of these structures."

33. Subheadings 9010.90.40 and 9010.90.90 are deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [9010 | Apparatus...:] | | | |
| [9010.90 | Parts...:] | | | |
| "9010.90.85 | Parts and accessories of articles of subheadings 9010.50 and 9010.60......................... | Free | | 45% |
| 9010.90.95 | Other.................................................................... | 2.9% | Free (A,AU,BH,<br>CA,CL,CO,E,IL,<br>JO,KR,MA,MX,<br>OM,P,PA,PE,SG) | 45%" |

34. Subheading 9013.10.40 is deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [9013 | Liquid...:] | | | |
| [9013.10 | Telescopic...:] | | | |
| | "Other: | | | |
| 9013.10.45 | Telescopes designed to form parts of machines, appliances, instruments or apparatus of this chapter or section XVI........ | Free | | 45% |
| 9013.10.50 | Other............................................................. | 5.3% | Free (A,AU,BH,<br>CA,CL,CO,E,IL,<br>JO,KR,MA,MX,<br>OM,P,PA,PE,SG) | 45%" |

35. Subheading 9013.90.90 is deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [9013. | Liquid...:] | | | |
| [9013.90 | Parts...:] | | | |
| | "Other: | | | |
| 9013.90.70 | Other parts and accessories, other than for telescopic sights for fitting to arms or for periscopes........................................................ | [See annex II] | Free (A,AU,BH, CA,CL,CO,E,IL, JO,KR,MA,MX, OM,P,PA,PE,SG): | 45% |
| 9013.90.80 | Other.............................................................. | 4.5% | Free (A,AU,BH, CA,CL,CO,E,IL, JO,KR,MA,MX, OM,P,PA,PE,SG): | 45%" |

36. Subheading 9025.90.00 is deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [9025 | Hydrometers...:] | | | |
| "9025.90 | Parts and accessories: | | | |
| 9025.90.01 | Goods described in additional U.S. note 5 to this chapter................................................................. | Free | | The rate applicable to the article of which it is a a part or accessory |
| 9025.90.06 | Other.................................................................... | Free | | The rate applicable to the article of which it is a a part or accessory" |

37. Subheadings 9027.90.20 through 9027.90.58 are deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [9027 | Instruments...:] | | | |
| [9027.90 | Microtomes; parts and accessories:] | | | |
| "9027.90.01 | Goods described in additional U.S. note 5 to this chapter........................................................ | Free | | 40% |
| | Other: | | | |
| 9027.90.20 | Microtomes................................................... | [See annex II] | Free (A,AU,BH,<br>CA,CL,CO,E,IL,<br>JO,KR,MA,MX,<br>OM,P,PA,PE,<br>SG) | 40% |
| | Parts and accessories: | | | |
| | Of electrical instruments and apparatus: | | | |
| 9027.90.45 | Printed circuit assemblies for the goods of subheading 9027.80.... | Free | | 40% |
| | Other: | | | |
| 9027.90.54 | Of electrophoresis instruments not incorporating an optical or other measuring device............................... | Free | | 40% |
| 9027.90.56 | Of instruments and apparatus of subheading 9027.20, 9027.30, 9027.50 or 9027.80.......................... | Free | | 40% |
| 9027.90.59 | Other................................ | [See annex II] | Free (A,AU,BH,<br>CA,CL,CO,E,IL,<br>JO,KR,MA,MX,<br>OM,P,PA,PE,<br>SG) | 40%" |

**38. Subheading 9030.33.00 is deleted and the following new provisions are inserted in lieu thereof:**

| | | | | |
|---|---|---|---|---|
| [9030 | Oscilloscopes,...:] | | | |
| | [Other...:] | | | |
| "9030.33 | Other, without a recording device: | | | |
| 9030.33.34 | Resistance measuring instruments.............. | 1.7% | Free (A,AU,B,<br>BH,CA,CL,CO,E,<br>IL,JO,KR,MA,<br>MX,OM,P,PA,<br>PE,SG) | 40% |
| 9030.33.38 | Other........................................................ | [See annex II] | Free (A,AU,B,<br>BH,CA,CL,CO,E,<br>IL,JO,KR,MA,<br>MX,OM,P,PA,<br>PE,SG) | 40%" |

**39. Subheadings 9030.90.25 through 9030.90.88 are deleted and the following new provisions are inserted in lieu thereof:**

| | | | | |
|---|---|---|---|---|
| [9030 | Oscilloscopes,...:] | | | |
| [9030.90 | Parts and accessories:] | | | |
| "9030.90.01 | Goods described in additional U.S. note 5 to this chapter........................ | Free | | 40% |
| | Other: | | | |
| | For articles of subheading 9030.10: | | | |
| 9030.90.25 | Printed circuit assemblies..................... | Free | | 40% |
| 9030.90.46 | Other ..................................................... | Free | | 40% |
| | Other: | | | |
| | Printed circuit assemblies: | | | |
| 9030.90.66 | Of instruments and apparatus of subheading 9030.40 or 9030.82.. | Free | | 40% |
| 9030.90.68 | Other........................................... | [See annex II] | Free (A,AU,BH,C,CA,CL,CO,E,IL, JO,KR,MA,MX,OM,P,PA,PE,SG) | 40% |
| | Other: | | | |
| 9030.90.84 | Of instruments and apparatus of subheading 9030.82........................................ | Free | | 40% |
| 9030.90.89 | Other ........................................... | Free | | 40%" |

**40. Subheadings 9031.90.20 through 9031.90.90 and intermediate superior text are deleted and the following new provisions are inserted in lieu thereof:**

| | | | | |
|---|---|---|---|---|
| [9031 | :Measuring...:] | | | |
| [9031.90 | Parts and accessories:] | | | |
| "9031.90.01 | Goods described in additional U.S. note 5 to this chapter........ | Free | | 45% |
| | Other: | | | |
| 9031.90.21 | Of profile projectors........ | Free | | 45% |
| | Of other optical instruments and appliances, other than test benches: | | | |
| 9031.90.45 | Bases and frames for the coordinate-measuring machines of subheading 9031.49.40........ | Free | | 50% |
| 9031.90.54 | Of optical instruments and appliances Of subheading 9031.41 or 9031.49.70.. | Free | | 50% |
| 9031.90.59 | Other........ | Free | | 50% |
| | Other: | | | |
| 9031.90.70 | Of articles of subheading 9031.80.40... | Free | | 40% |
| 9031.90.91 | Other........ | Free | | 40%" |

41. Subheadings 9032.90.20, 9032.90.40, and 9032.90.60 are deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [9032 | Automatic...:] | | | |
| [9032.90 | Parts and accessories:] | | | |
| "9032.90.01 | Goods described in additional U.S. note 5 to this chapter... | Free | | 25% |
| | Other: | | | |
| | Of automatic voltage and voltage-current regulators: | | | |
| 9032.90.21 | Designed for use in a 6, 12 or 24 V system... | 1.1% | Free (A,AU,B, BH,C,CA,CL,CO, E,IL,JO,KR,MA, MX,OM,P,PA, PE,SG) | 25% |
| 9032.90.41 | Other... | 1.7% | Free (A,AU,BH, C,CA,CL,CO,E, IL,JO,KR,MA, MX,OM,P,PA, PE,SG) | 35% |
| 9032.90.61 | Other... | 1.7% | Free (A,AU,B, BH,C,CA,CL,CO, E,IL,JO,KR,MA, MX,OM,P,PA, PE,SG) | 40%" |

42. Heading 9033.00.00 is deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| "9033.00 | Parts and accessories (not specified or included elsewhere in this chapter) for machines, appliances, instruments or apparatus of chapter 90: | | | |
| 9033.00.10 | Goods described in additional U.S. note 5 to this chapter... | Free | | 40% |
| 9033.00.20 | Light-emitting diode (LED) backlights modules, the foregoing which are lighting sources that consist of one or more LEDs and one or more connectors and are mounted on a printed circuit or other similar substrate, and other passive components, whether or not combined with optical components or protective diodes, and used as backlights illumination for liquid crystal displays (LCDs)... | [See annex II] | Free (A,AU,B, BH,CA,CL,CO, E,IL,JO,KR,MA, MX,OM,P,PA, PE,SG) | 40% |

| | | | | |
|---|---|---|---|---|
| [9033.00 | :Parts...:] | : | : | : |
| 9033.00.30 | : Touch-sensitive data input devices (so-called "touch screens") without display capabilities, for incorporation into apparatus having a display, which function by : detecting the presence and location of a touch within the display area (such sensing may be obtained by means of resistance, electrostatic capacity, acoustic pulse recognition, infrared lights or other touch-sensitive technology)........................................................ | :[See annex II] | :Free (A,AU,B, BH,C,CA,CL,CO, E,IL,JO,KR,MA, MX,OM,P,PA, PE,SG) | : 40% |
| 9033.00.90 | : Other........................................................................................ | :4.4% | :Free (A,AU,B, BH,C,CA,CL,CO, E,IL,JO,KR,MA, MX,OM,P,PA, PE,SG) | :40%" |

43. Subheading 9405.40.80 is deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [9405 | : Lamps...:] | : | : | : |
| [9405.40 | : Other...:] | : | : | : |
| | : "Other: | : | : | : |
| 9405.40.82 | : Light-emitting diode (LED) backlights modules, the foregoing which are lighting sources that consist of one or more LEDs and one or more connectors and are mounted on a printed circuit or other similar substrate, and other passive components, whether or not combined with optical components or protective diodes, and used as backlights illumination for liquid crystal displays (LCDs)............................................ | :[See annex II] | :Free (A,AU,BH, CA,CL,CO,E,IL, JO,KR,MA,MX, OM,P,PA,PE,SG) | : 35% |
| 9405.40.84 | : Other............................................................ | : 3.9% | : Free (A,AU,BH, CA,CL,CO,E,IL, JO,KR,MA,MX, OM,P,PA,PE,SG) | : 35%" |

## Annex II

## Modifications to the Rates of Duty Column of the HTS

A. Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after July 1, 2016, for the following subheadings, the "Rates of Duty 1-General" subcolumn is modified by deleting the rate of duty appearing in such subcolumn and inserting "Free" in lieu thereof, and by deleting all rates of duty in the "Rates of Duty 1-Special" subcolumn for each such subheading:

3701.30.00
8442.50.90
8443.39.20
8443.39.40
8443.39.50
8443.91.20
8472.10.00
8472.90.05
8472.90.40
8472.90.90
8519.81.10
8519.81.20
8519.89.20
8522.90.25
8522.90.65
8523.29.40
8523.29.50
8523.29.60
8523.29.80
8523.49.50
8523.80.10
8525.80.10
8525.80.20
8527.19.50
8527.91.05
8527.91.40
8527.91.50
8527.92.50
8527.99.15
8527.99.40
8528.49.20
8528.49.30
8528.49.35
8528.49.40
8528.49.45
8528.49.50
8528.49.60
8528.49.65
8528.49.70
8528.49.75
8528.49.80
8528.71.10
8528.71.40
8528.71.45
8543.70.60
8543.70.80
8543.70.93
9001.20.00
9001.90.40
9001.90.50
9001.90.60
9001.90.80
9001.90.90
9002.19.00
9002.90.20
9002.90.40
9002.90.95
9010.50.30
9010.50.40
9011.10.40
9011.10.80
9012.10.00
9012.90.00
9013.20.00
9014.10.10
9014.10.90
9014.20.20
9014.20.40
9014.80.10
9014.80.20
9015.10.80
9015.20.80
9015.40.80
9015.80.20
9015.90.00
9022.29.80
9022.30.00
9022.90.60
9024.10.00
9024.80.00
9024.90.00
9025.19.40
9027.10.40
9027.10.60
9027.90.88
9030.10.00
9031.10.00
9031.49.10
9031.49.40
9031.49.90
9032.20.00
9032.81.00

B. Effective with respect to goods entered, or withdrawn from warehouse for consumption, as provided below, for each of the following subheadings, the "Rates of Duty 1-General" subcolumn is modified, on the first day of each of the periods set forth below, by deleting the rate of duty in such subcolumn and by inserting the following rate of duty specified for such subheading in lieu thereof:

| HTS number | July 1, 2016-June 30, 2017 | July 1, 2017-June 30, 2018 | July 1, 2018-June 30, 2019 | July 1, 2019 |
|---|---|---|---|---|
| 3215.11.10 | 1.3% | 0.9% | 0.4% | Free |
| 3215.19.10 | 1.3% | 0.9% | 0.4% | Free |
| 3506.91.10 | 1.5% | 1% | 0.5% | Free |
| 3701.99.30 | 3.6% | 2.4% | 1.2% | Free |
| 3701.99.60 | 2.7% | 1.8% | 0.9% | Free |
| 3707.90.32 | 4.8% | 3.2% | 1.6% | Free |
| 3707.90.60 | 1.1% | 0.7% | 0.3% | Free |
| 3907.99.20 | 4.8% | 3.2% | 1.6% | Free |
| 3923.10.20 | 2.2% | 1.5% | 0.7% | Free |
| 8504.40.40 | 1.1% | 0.7% | 0.3% | Free |
| 8504.40.95 | 1.1% | 0.7% | 0.3% | Free |
| 8504.50.80 | 2.2% | 1.5% | 0.7% | Free |
| 8504.90.75 | 1.8% | 1.2% | 0.6% | Free |
| 8504.90.96 | 1.8% | 1.2% | 0.6% | Free |
| 8518.10.80 | 3.6% | 2.4% | 1.2% | Free |
| 8518.21.00 | 3.6% | 2.4% | 1.2% | Free |
| 8518.22.00 | 3.6% | 2.4% | 1.2% | Free |
| 8518.29.80 | 3.6% | 2.4% | 1.2% | Free |
| 8518.30.20 | 3.6% | 2.4% | 1.2% | Free |
| 8518.40.20 | 3.6% | 2.4% | 1.2% | Free |
| 8518.50.00 | 3.6% | 2.4% | 1.2% | Free |
| 8518.90.41 | 6.3% | 4.2% | 2.1% | Free |
| 8518.90.81 | 3.6% | 2.4% | 1.2% | Free |
| 8522.90.36 | 1.5% | 1% | 0.5% | Free |
| 8525.50.30 | 1.3% | 0.9% | 0.4% | Free |
| 8525.50.70 | 2.2% | 1.5% | 0.7% | Free |
| 8525.80.30 | 1.5% | 1% | 0.5% | Free |
| 8525.80.50 | 1.5% | 1% | 0.5% | Free |
| 8526.92.50 | 3.6% | 2.4% | 1.2% | Free |
| 8527.29.40 | 3.3% | 2.2% | 1.1% | Free |
| 8527.29.80 | 3.3% | 2.2% | 1.1% | Free |

| | | | | |
|---|---|---|---|---|
| 8529.10.91 | 2.2% | 1.5% | 0.7% | Free |
| HTS number | July 1, 2016-June 30, 2017 | July 1, 2017-June 30, 2018 | July 1, 2018-June 30, 2019 | July 1, 2019 |
| 8529.90.04 | 2.2% | 1.5% | 0.7% | Free |
| 8529.90.05 | 3% | 2% | 1% | Free |
| 8529.90.13 | 2.1% | 1.4% | 0.7% | Free |
| 8529.90.19 | 2.4% | 1.6% | 0.8% | Free |
| 8529.90.24 | 2.4% | 1.6% | 0.8% | Free |
| 8529.90.39 | 2.1% | 1.4% | 0.7% | Free |
| 8529.90.49 | 2.1% | 1.4% | 0.7% | Free |
| 8529.90.53 | 2.1% | 1.4% | 0.7% | Free |
| 8529.90.68 | 2.1% | 1.4% | 0.7% | Free |
| 8529.90.81 | 2.4% | 1.6% | 0.8% | Free |
| 8529.90.83 | 2.1% | 1.4% | 0.7% | Free |
| 8529.90.93 | 2.1% | 1.4% | 0.7% | Free |
| 8529.90.95 | 2.4% | 1.6% | 0.8% | Free |
| 8529.90.97 | 2.4% | 1.6% | 0.8% | Free |
| 8531.80.90 | 0.9% | 0.6% | 0.3% | Free |
| 8531.90.30 | 0.9% | 0.6% | 0.3% | Free |
| 8531.90.90 | 0.9% | 0.6% | 0.3% | Free |
| 8536.30.40 | 2% | 1.3% | 0.6% | Free |
| 8536.30.80 | 2% | 1.3% | 0.6% | Free |
| 8536.50.40 | 2% | 1.3% | 0.6% | Free |
| 8536.50.90 | 2% | 1.3% | 0.6% | Free |
| 8536.90.85 | 2% | 1.3% | 0.6% | Free |
| 8537.10.80 | 2% | 1.3% | 0.6% | Free |
| 8538.10.00 | 2.7% | 1.8% | 0.9% | Free |
| 8543.20.00 | 1.9% | 1.3% | 0.6% | Free |
| 8543.30.20 | 1.9% | 1.3% | 0.6% | Free |
| 8543.70.42 | 1.9% | 1.3% | 0.6% | Free |
| 8543.70.89 | 1.9% | 1.3% | 0.6% | Free |
| 8543.70.91 | 1.9% | 1.3% | 0.6% | Free |
| 8543.70.95 | 1.9% | 1.3% | 0.6% | Free |
| 8543.70.97 | 1.9% | 1.3% | 0.6% | Free |
| 8543.90.68 | 1.9% | 1.3% | 0.6% | Free |
| 8543.90.88 | 1.9% | 1.3% | 0.6% | Free |
| 9002.20.40 | 1.5% | 1% | 0.5% | Free |
| 9002.20.80 | 2.1% | 1.4% | 0.7% | Free |
| 9002.90.70 | 0.8% | 0.5% | 0.2% | Free |
| 9010.60.00 | 1.9% | 1.3% | 0.6% | Free |
| 9011.80.00 | 4.8% | 3.2% | 1.6% | Free |

| | | | | |
|---|---|---|---|---|
| 9011.90.00 | 4.2% | 2.8% | 1.4% | Free |
| HTS number | July 1, 2016-June 30, 2017 | July 1, 2017-June 30, 2018 | July 1, 2018-June 30, 2019 | July 1, 2019 |
| 9013.90.70 | 3.3% | 2.2% | 1.1% | Free |
| 9022.29.40 | 0.7% | 0.5% | 0.2% | Free |
| 9025.19.80 | 1.3% | 0.9% | 0.4% | Free |
| 9027.10.20 | 1.2% | 0.8% | 0.4% | Free |
| 9027.90.20 | 1.6% | 1.1% | 0.5% | Free |
| 9027.90.59 | 1.2% | 0.8% | 0.4% | Free |
| 9027.90.68 | 2.6% | 1.7% | 0.8% | Free |
| 9028.30.00 | 12¢ each + 1.1% | 8¢ each + 0.7% | 4¢ each + 0.3% | Free |
| 9028.90.00 | 2.4% | 1.6% | 0.8% | Free |
| 9030.20.10 | 1.2% | 0.8% | 0.4% | Free |
| 9030.31.00 | 1.2% | 0.8% | 0.4% | Free |
| 9030.32.00 | 1.2% | 0.8% | 0.4% | Free |
| 9030.33.38 | 1.2% | 0.8% | 0.4% | Free |
| 9030.39.01 | 1.2% | 0.8% | 0.4% | Free |
| 9030.84.00 | 1.2% | 0.8% | 0.4% | Free |
| 9030.89.01 | 1.2% | 0.8% | 0.4% | Free |
| 9030.90.68 | 1.2% | 0.8% | 0.4% | Free |
| 9031.80.80 | 1.2% | 0.8% | 0.4% | Free |
| 9033.00.20 | 3.3% | 2.2% | 1.1% | Free |
| 9033.00.30 | 3.3% | 2.2% | 1.1% | Free |
| 9405.40.82 | 2.9% | 1.9% | 0.9% | Free |

## ANNEX III

## TO MODIFY PROVISIONS OF THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

A. Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after July 1, 2016, the "Rates of Duty 1-Special" subcolumn for each of the subheadings of the Harmonized Tariff Schedule of the United States enumerated below is modified by inserting in alphabetical sequence in the parenthetical expression following the rate of duty "Free" the symbol "D,":

0106.31.00
0106.32.00
0106.33.00
0106.39.01
0202.30.02
0202.30.10
0203.22.10
0203.29.20
0207.42.00
0207.52.00
0207.60.20
0208.90.30
0209.10.00
0209.90.00
0210.12.00
0210.91.00
0210.92.01
0210.93.00
0210.99.20
0210.99.91
0302.23.00
0302.45.11
0302.46.11
0302.54.11
0302.55.11
0302.56.11
0302.59.11
0302.71.11
0302.72.11
0302.73.11
0302.79.11
0302.84.11
0302.85.11
0302.89.11
0302.90.20
0303.33.00
0303.34.00
0303.39.01
0303.53.00
0303.81.00
0303.90.20
0304.91.90
0304.92.90
0304.93.90
0304.94.90
0304.95.90
0304.99.91
0305.10.40
0305.20.20
0305.63.20
0305.64.50
0305.69.60
0306.14.20
0306.24.20
0307.60.00
0404.10.05
0404.90.10
0405.20.80
0406.10.02
0406.10.04
0407.11.00
0407.19.00
0407.21.00
0407.29.00
0407.90.00
0410.00.00
0501.00.00
0502.10.00
0505.90.20
0510.00.20
0511.99.40
0601.10.15
0601.10.45
0601.10.60
0601.10.75
0601.10.90
0601.20.90
0602.10.00
0602.30.00
0602.90.30
0602.90.40
0602.90.60
0602.90.90
0603.12.30
0603.12.70
0603.13.00
0603.14.00
0603.15.00
0603.19.01
0603.90.00
0604.90.60
0701.90.10
0702.00.60

0703.10.20
0703.10.30
0703.10.40
0703.20.00
0704.10.20
0704.10.40
0704.10.60
0704.20.00
0704.90.20
0705.11.20
0705.11.40
0705.19.20
0705.19.40
0705.21.00
0705.29.00
0706.10.10
0706.90.20
0706.90.30
0707.00.20
0707.00.40
0707.00.60
0708.10.20
0708.10.40
0708.20.10
0708.90.05
0708.90.15
0708.90.30
0709.20.10
0709.30.20
0709.30.40
0709.40.40
0709.60.20
0709.60.40
0709.91.00
0709.93.10
0709.93.20
0709.99.05
0709.99.10
0709.99.14
0710.21.20
0710.21.40
0710.22.10
0710.22.15
0710.22.25
0710.29.05
0710.29.15
0710.29.30
0710.80.50
0710.80.65
0710.80.70
0710.80.93
0710.90.11
0711.20.18
0711.40.00
0711.59.90
0711.90.30
0711.90.50
0711.90.65
0712.31.10
0712.32.00
0712.33.00
0712.39.10
0712.90.10
0712.90.15
0712.90.30
0712.90.65
0712.90.70
0712.90.74
0712.90.85
0713.10.10
0713.10.40
0713.20.10
0713.20.20
0713.31.10
0713.31.40
0713.32.10
0713.32.20
0713.33.10
0713.33.20
0713.33.40
0713.34.10
0713.34.20
0713.34.40
0713.39.11
0713.39.21
0713.39.41
0713.40.10
0713.40.20
0713.50.10
0713.50.20
0713.60.10
0713.60.60
0713.60.80
0713.90.11
0713.90.61
0713.90.81
0714.10.10
0714.10.20
0714.20.10
0714.20.20
0714.30.10
0714.30.20
0714.30.60
0714.40.20
0714.40.60
0714.50.20
0714.50.60
0714.90.10
0714.90.41
0714.90.46
0714.90.48
0714.90.61
0802.31.00
0802.51.00
0802.52.00
0802.61.00
0802.70.10
0802.70.20
0802.80.10
0802.90.15
0802.90.20
0802.90.25
0802.90.82
0803.10.20
0804.20.60
0804.50.40

0804.50.60
0804.50.80
0805.50.30
0805.50.40
0805.90.01
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9105.19.10
9105.19.40
9105.99.10
9106.90.40
9106.90.55
9106.90.65
9107.00.40
9112.20.80
9112.90.00
9113.10.00
9113.20.20
9113.20.60
9113.20.90
9113.90.80
9201.10.00
9201.20.00
9201.90.00
9202.10.00
9202.90.20
9202.90.40
9202.90.60
9205.10.00
9205.90.14
9205.90.18
9205.90.40
9206.00.20
9206.00.80
9207.10.00
9207.90.00
9208.10.00
9208.90.00
9209.92.20
9209.92.40
9209.92.80
9209.94.40
9209.94.80
9209.99.10
9209.99.18
9209.99.80
9301.90.30
9301.90.60
9303.20.00
9303.30.40
9303.30.80
9303.90.40
9304.00.20
9304.00.60
9305.10.40
9305.20.05
9305.99.50
9305.99.60
9307.00.00
9404.21.00
9404.29.90
9404.30.40
9404.90.20
9405.10.40
9405.10.60
9405.10.80
9405.20.40
9405.20.60
9405.20.80
9405.30.00
9405.40.40
9405.40.60
9405.40.80
9405.50.20
9405.50.30
9405.50.40
9405.60.20
9405.60.40
9405.60.60

9405.91.10
9405.91.30
9405.91.40
9405.91.60
9405.92.00
9405.99.20
9405.99.40
9406.00.40
9406.00.80
9506.11.40
9506.12.80
9506.19.80
9506.31.00
9506.39.00
9506.40.00
9506.51.20
9506.51.40
9506.51.60
9506.59.40
9506.59.80
9506.62.80
9506.69.40
9506.69.60
9506.70.40
9506.91.00
9506.99.12
9506.99.30
9506.99.45
9506.99.50
9506.99.55
9506.99.60
9507.20.40
9507.20.80
9507.30.60
9507.30.80
9507.90.20
9507.90.40
9507.90.60
9507.90.80
9601.90.40
9601.90.80
9602.00.10
9602.00.40
9602.00.50
9603.10.90
9603.29.40
9603.29.80
9603.30.20
9603.40.20
9603.40.40
9603.90.80
9604.00.00
9605.00.00
9606.10.40
9606.10.80
9606.21.40
9606.21.60
9606.29.20
9606.29.40
9606.29.60
9606.30.80
9607.11.00
9607.19.00
9607.20.00
9608.10.00
9608.20.00
9608.40.40
9608.60.00
9608.99.20
9608.99.30
9609.10.00
9610.00.00
9611.00.00
9613.10.00
9613.20.00
9613.80.10
9613.80.20
9613.80.40
9613.80.60
9613.80.80
9613.90.40
9613.90.80
9614.00.25
9614.00.26
9614.00.28
9614.00.94
9614.00.98
9615.11.10
9615.11.20
9615.11.30
9615.11.40
9615.19.20
9615.19.40
9615.19.60
9615.90.20
9615.90.30
9615.90.40
9615.90.60
9617.00.10
9617.00.30
9617.00.40
9617.00.60
9618.00.00
9619.00.05
9619.00.90

B. Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after July 1, 2016, the "Rates of Duty 1-Special" subcolumn for each of the subheadings of the Harmonized Tariff Schedule of the United States enumerated below is modified by inserting in alphabetical sequence:

1. In subheadings 2106.90.52, 2106.90.54, 2202.90.36, and 2202.90.37, in the parenthetical expression following the rate of duty beginning "The rate applicable to the natural juice in heading 2009" the symbol "D".

2. In heading 9817.61.01, in the parenthetical expression following the rate of duty beginning "The rate applicable in the absence of this heading" the symbol "D".

## ANNEX IV

## MODIFICATIONS TO THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after July 1, 2016, the Harmonized Tariff Schedule of the United States (HTS) is modified as provided herein, with the language in tabular format inserted in the HTS columns entitled "Heading/Subheading", "Article Description", "Rates of Duty 1-General", "Rates of Duty 1-Special", and "Rates of Duty 2", respectively.

### Section A.

1. Subheading 4202.12.20 is deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [4202 | Trunks, suitcases,...:] | | | |
| | [Trunks, suitcases,. . . ] | | | |
| [4202 12 | With outer surface of plastics or . . . :] | | | |
| | "With outer surface of plastics: | | | |
| 4202.12 21 | Trunks, suitcases, vanity cases and similar containers | 20% | Free (A+,AU,BH, CA,CL,CO,D,IL, JO,KR,MA,MX, OM,P,PA,PE,R, SG)<br>17.5% (E) | 45% |
| 4202.12.29 | Other | 20% | Free (AU,BH, CA,CL,CO,D,IL, JO,KR,MA,MX, OM,P,PA,PE,R, SG)<br>17.5% (E) | 45%" |

2. Subheading 4202.12.80 is deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [4202 | Trunks, suitcases,...:] | | | |
| | [Trunks, suitcases,. . . ] | | | |
| [4202.12 | With outer surface of plastics or . . :] | | | |
| | [With outer surface of textile materials:] | | | |
| "4202.12.81 | Of man-made fibers | 17.6% | Free (A+,AU,BH, CA,CL,CO,D,IL, JO,KR,MA,MX, OM,P,PA,PE, SG)<br>16.6% (E) | 65% |
| 4202.12.89 | Other | 17 6% | Free (AU,BH, CA,CL,CO,IL, JO,KR,MA,MX, OM,P,PA,PE, SG)<br>16.6% (E) | 65%" |

3. Subheading 4202.22.80 is deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [4202 | Trunks, suitcases,...:] | | | |
| | [Handbags,..:] | | | |
| [4202.22 | With outer surface of sheeting of ... .] | | | |
| | [With outer surface of textile materials:] | | | |
| | [Other:] | | | |
| | [Other:] | | | |
| "4202 22.81 | Of man-made fibers | 17.6% | Free (A+,AU,BH,<br>CA,CL,CO,D,IL,<br>JO,KR,MA,MX,<br>OM,P,PA,PE,<br>SG)<br>16.6% (E) | 65% |
| 4202.22.89 | Other | 17.6% | Free (AU,BH,<br>CA,CL,CO,IL,<br>JO,KR,MA,MX,<br>OM,P,PA,PE,<br>SG)<br>16.6% (E) | 65%" |

4. Subheading 4202.32.95 is deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [4202 | Trunks, suitcases,...:] | | | |
| | [Articles...:] | | | |
| [4202.32 | With outer surface of sheeting of . . :] | | | |
| | [With outer surface of textile materials:] | | | |
| | [Other:] | | | |
| "4202 32.91 | Of cotton | 17.6% | Free (AU,BH,<br>CA,CL,CO,IL,<br>JO,KR,MA,MX,<br>OM,P,PA,PE,<br>SG)<br>16.6% (E) | 65% |
| 4202.32.93 | Of man-made fibers | 17.6% | Free (A+,AU,BH,<br>CA,CL,CO,D,IL,<br>JO,KR,MA,MX,<br>OM,P,PA,PE,<br>SG)<br>16.6% (E) | 65% |
| 4202 32.99 | Other | 17.6% | Free (A+,AU,BH,<br>CA,CL,CO,D,IL,<br>JO,KR,MA,MX,<br>OM,P,PA,PE,<br>SG)<br>16.6% (E) | 65%" |

5. Subheading 4202.91.00 is deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [4202 | Trunks, suitcases,. .:] | | | |
| | [Other:] | | | |
| "4202.91: | With outer surface of leather or of composition leather: | | | |
| 4202.91.10 | Golf bags | 4.5% | Free (AU,BH, CA,CL,CO,D,IL, JO,KR,MA,MX, OM,P,PA,PE, SG)<br>3.5% (E) | 35% |
| 4202.91.90 | Other | 4.5% | Free (A+,AU,BH, CA,CL,CO,D,IL, JO,KR,MA,MX, OM,P,PA,PE, SG)<br>3.5% (E) | 35%" |

6. Subheading 4202.92.30 is deleted and the following new provisions are inserted in lieu thereof:

| | | | | |
|---|---|---|---|---|
| [4202 | Trunks, suitcases,...:] | | | |
| | [Other ..:] | | | |
| [4202.92 | With outer surface of sheeting. . . :] | | | |
| | [Travel, sports, . . . :] | | | |
| | [With outer surface of textile . . . ] | | | |
| "4202.92.31 | Of man-made fibers | 17.6% | Free (A+,AU,BH, CA,CL,CO,D,IL, JO,KR,MA,MX, OM,P,PA,PE, SG)<br>16.6% (E) | 65% |
| 4202.92.33 | Of paper yarn or of cotton; containing 85 percent or more by weight of silk or silk waste | 17.6% | Free (AU,BH, CA,CL,CO, IL, JO,KR,MA,MX, OM,P,PA,PE, SG)<br>16.6% (E) | 65% |
| 4202.92.39 | Other | 17.6% | Free (A+,AU,BH, CA,CL,CO,D,IL, JO,KR,MA,MX, OM,P,PA,PE, SG)<br>16.6% (E) | 65%" |

**7. Subheading 4202.92.90 is deleted and the following new provisions are inserted in lieu thereof:**

| | | | | |
|---|---|---|---|---|
| [4202 | Trunks, suitcases,...:] | | | |
| | [Other. .:] | | | |
| [4202 92 | With outer surface of sheeting . . . :] | | | |
| | [Other:] | | | |
| | "Other: | | | |
| | With outer surface of textile materials: | | | |
| "4202.92 91 | Of man-made fibers (except jewelry boxes of a kind normally sold at retail with their contents) | 17.6% | Free (A+, AU,BH, CA,CL, CO,D,IL, JO,KR, MA,MX,OM,P, PA,PE,SG)<br>16.6% (E) | 45% |
| 4202.92.93 | Other | 17.6% | Free (AU, BH,CA,CL, CO, IL,JO,KR,MA, MX,OM,P, PA,PE,SG)<br>16.6% (E) | 45% |
| | Other. | | | |
| 4202 92.94 | Cases designed to protect and transport compact disks (CD's),CD Rom disks, CD players, cassette players, and/or cassettes | 17.6% | Free (AU, BH,CA,CL, CO, IL,JO,KR,MA, MX,OM,P, PA,PE,SG)<br>16.6% (E) | 45% |
| 4202.92.97 | Other | 17.6% | Free (A+, AU,BH, CA,CL, CO,D,IL, JO,KR, MA,MX,OM,P, PA,PE,SG)<br>16.6% (E) | 45%" |

Section B. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 1, 2016, the HTS is modified for the following subheadings:

1. The Rates of Duty 1-Special subcolumn is modified by adding the symbols "A+" in alphabetical order for:

   4202.11.00
   4202.21.60
   4202.21.90
   4202.22.15
   4202.31.60
   4202.92.45
   4202.99.90

2. The Rates of Duty 1-Special subcolumn is modified by adding the symbols "A+" and "D" in alphabetical order for:

   4202.12.40
   4202.22.45
   4202.32.40
   4202.32.80
   4202.92.15
   4202.92.20

## ANNEX V

Section A. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 1, 2016, general note 4(d) to the Harmonized Tariff Schedule of the United States (HTS) is modified by:

1. adding, in numerical sequence, the following subheading numbers and the countries set out opposite such subheading numbers:

| | |
|---|---|
| 2202.90.36 | Philippines |
| 3204.20.10 | India |
| 3204.20.80 | India |
| 7325.91.00 | India |
| 8708.50.95 | India |

2. adding, in alphabetical order, the following country opposite the following subheading number:

| | |
|---|---|
| 3907.60.00 | India |

Section B. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 1, 2016, the HTS is modified as provided in this section. For each of the following subheadings, the Rates of Duty 1-Special subcolumn is modified by deleting the symbol "A" and inserting the symbol "A*" in lieu thereof:

2202.90.36
3204.20.10
3204.20.80
7325.91.00
8708.50.95

# ANNEX VI

## HTS Subheadings and Countries for Which the Competitive Need Limitation Provided in Section 503(c)(2)(A)(i)(II) Is Disregarded

| | |
|---|---|
| 0302.46.11 | Guyana |
| 0304.91.90 | Ecuador |
| 0405.20.80 | India |
| 0603.13.00 | Thailand |
| 0710.80.50 | Turkey |
| 0711.40.00 | India |
| 0713.34.10 | Thailand |
| 0713.34.20 | Belize |
| 0713.60.60 | India |
| 0802.52.00 | Turkey |
| 0802.80.10 | India |
| 0802.90.20 | Pakistan |
| 0810.60.00 | Thailand |
| 0813.40.10 | Thailand |
| 0813.40.80 | Thailand |
| 1102.90.30 | India |
| 1103.19.14 | India |
| 1701.91.54 | India |
| 1702.90.52 | Indonesia |
| 2001.90.45 | India |
| 2004.90.10 | Ecuador |
| 2005.70.02 | Egypt |
| 2005.80.00 | Thailand |
| 2006.00.70 | Thailand |
| 2008.99.50 | Thailand |
| 2009.50.00 | Turkey |
| 2306.50.00 | Papua New Guinea |
| 2516.20.20 | India |
| 2813.90.50 | India |
| 2824.90.50 | India |
| 2827.39.25 | India |
| 2827.39.45 | India |
| 2828.10.00 | India |
| 2831.90.00 | India |
| 2833.29.40 | Turkey |
| 2834.10.10 | India |
| 2840.11.00 | Turkey |
| 2841.61.00 | India |
| 2844.30.10 | India |
| 2903.81.00 | India |
| 2904.10.08 | India |
| 2904.90.04 | India |
| 2905.19.10 | Brazil |
| 2905.22.20 | India |
| 2905.49.20 | India |
| 2907.12.00 | India |
| 2907.15.10 | India |
| 2907.29.25 | India |
| 2908.19.20 | India |
| 2909.11.00 | India |
| 2910.10.00 | India |
| 2910.20.00 | Brazil |
| 2912.49.10 | India |
| 2913.00.50 | India |
| 2914.29.10 | India |
| 2914.31.00 | India |
| 2914.40.10 | Brazil |
| 2914.40.20 | India |
| 2921.42.15 | India |
| 2921.42.21 | India |
| 2922.29.26 | India |
| 2924.29.36 | India |
| 2924.29.43 | India |
| 2927.00.30 | India |
| 2930.90.30 | India |
| 2932.99.08 | India |
| 2933.49.08 | India |
| 2933.99.06 | India |
| 3802.90.10 | Brazil |
| 3824.90.31 | Brazil |
| 3824.90.32 | Brazil |
| 3920.94.00 | India |
| 4101.20.70 | Pakistan |
| 4103.90.13 | India |
| 4104.11.30 | India |
| 4106.21.90 | India |
| 4106.22.00 | Pakistan |
| 4107.11.40 | India |
| 4107.11.60 | Turkey |
| 4107.12.40 | India |
| 4107.19.40 | India |
| 4107.91.40 | India |
| 4107.92.40 | India |
| 4107.99.40 | Pakistan |
| 4107.99.80 | Brazil |
| 4113.10.60 | Pakistan |
| 4202.22.35 | India |
| 4302.20.60 | Brazil |
| 4412.99.80 | Brazil |
| 4601.22.40 | Indonesia |
| 4602.11.05 | Thailand |
| 4602.12.05 | Indonesia |
| 4602.19.05 | India |
| 5208.31.20 | India |
| 5208.52.10 | Indonesia |
| 5209.41.30 | India |

| | |
|---|---|
| 5607.90.35 | Philippines |
| 5702.92.10 | India |
| 6116.99.35 | Indonesia |
| 6908.10.20 | Indonesia |
| 7011.20.10 | Thailand |
| 7113.20.25 | India |
| 7806.00.03 | Venezuela |
| 8112.12.00 | Kazakhstan |
| 8112.19.00 | Kazakhstan |
| 8406.10.10 | India |
| 8479.89.55 | Thailand |
| 8516.90.85 | Turkey |
| 8523.29.50 | India |
| 9010.90.40 | India |
| 9614.00.26 | Egypt |

## ANNEX VII

## HTS Subheadings and Countries Granted a Waiver of the Application of Section 503(c)(2)(A) of the 1974 Act

| | |
|---|---|
| 0804.10.60 | Tunisia |
| 2102.20.60 | Brazil |
| 2202.90.90 | Thailand |

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Billing code 7020–02–C

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Vol. 81, No. 129

Wednesday, July 6, 2016

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## FEDERAL REGISTER PAGES AND DATE, JULY

| | |
|---|---|
| 42983–43462 | 1 |
| 43463–43926 | 5 |
| 43927–44206 | 6 |

## CFR PARTS AFFECTED DURING JULY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

### 3 CFR

**Proclamations:**

9466 .......... 44127

### 6 CFR

27 .......... 42987

### 7 CFR

1590 .......... 43006
1942 .......... 43927

### 8 CFR

270 .......... 42987
274a .......... 42987
280 .......... 42987

### 9 CFR

**Proposed Rules:**

94 .......... 43115

### 10 CFR

2 .......... 43019
13 .......... 43019
429 .......... 43404
430 .......... 43404

**Proposed Rules:**

20 .......... 43959

### 12 CFR

19 .......... 43021
109 .......... 43021
1209 .......... 43028
1217 .......... 43031
1250 .......... 43028

**Proposed Rules:**

1232 .......... 43530

### 14 CFR

1 .......... 43463
11 .......... 43463
13 .......... 43463
23 .......... 43469
25 .......... 43471
39 .......... 43037, 43472, 43475, 43479, 43481, 43483
71 .......... 43038
121 .......... 43463
125 .......... 43463
135 .......... 43463
382 .......... 43463
406 .......... 43463
1214 .......... 43040

**Proposed Rules:**

39 .......... 43120, 43122
71 .......... 43124

### 15 CFR

**Proposed Rules:**

801 .......... 43126

### 17 CFR

201 .......... 43042
232 .......... 43047

**Proposed Rules:**

229 .......... 43130
230 .......... 43130
240 .......... 43130
275 .......... 43530

### 18 CFR

250 .......... 43937
385 .......... 43937

**Proposed Rules:**

375 .......... 43557
388 .......... 43557

### 19 CFR

**Proposed Rules:**

149 .......... 43961

### 20 CFR

404 .......... 43048
655 .......... 43430
702 .......... 43430
725 .......... 43430
726 .......... 43430

### 21 CFR

101 .......... 43061

**Proposed Rules:**

1 .......... 43155
1005 .......... 43155
1271 .......... 43155

### 24 CFR

**Proposed Rules:**

982 .......... 44100

### 25 CFR

575 .......... 43941

### 26 CFR

301 .......... 43488

**Proposed Rules:**

1 .......... 43567

### 27 CFR

16 .......... 43062

### 28 CFR

0 .......... 43065
11 .......... 43942

### 29 CFR

5 .......... 43430
500 .......... 43430
501 .......... 43430
503 .......... 42983
530 .......... 43430
570 .......... 43430
578 .......... 43430
579 .......... 43430
801 .......... 43430
825 .......... 43430

1902..........43430
1903..........43430
2560..........43430
2575..........43430
2590..........43430

### 30 CFR

100..........43430
550..........43066
553..........43066
1202..........43338
1206..........43338

### 31 CFR

356..........43069
501..........43071
535..........43071
536..........43071
537..........43071
538..........43071
539..........43071
541..........43071
542..........43071
543..........43071
544..........43071
546..........43071
547..........43071
548..........43071
549..........43071
560..........43071
561..........43071
566..........43071
576..........43071
588..........43071
592..........43071
593..........43071
594..........43071
595..........43071
597..........43071
598..........43071

### 32 CFR

706..........43077

### 33 CFR

27..........42987
100..........43079, 43488, 43947
117..........43947
147..........43947
165..........43079, 43085, 43087, 43089, 43947

**Proposed Rules:**

165..........43178

### 39 CFR

**Proposed Rules:**

111..........43965

### 40 CFR

19..........43091
52..........43096, 43490, 43894
60..........43950
Ch. I..........43492
180..........43097
1065..........43101

**Proposed Rules:**

51..........43180
52..........43180, 43568

### 41 CFR

50–201..........43430

### 42 CFR

88..........43510

**Proposed Rules:**

401..........43790
405..........43790
409..........43714
422..........43790
423..........43790
478..........43790
484..........43714

### 44 CFR

**Proposed Rules:**

67..........43568

### 46 CFR

1..........43950
10..........43950
11..........43950
12..........43950
13..........43950
15..........43950

### 47 CFR

1..........43523
73..........43101, 43955
Ch. I..........43956

### 48 CFR

538..........43956
552..........43956

**Proposed Rules:**

915..........43971
934..........43971
942..........43971
944..........43971
945..........43971
952..........43971

### 49 CFR

209..........43101, 43105
213..........43105
214..........43105
215..........43105
216..........43105
217..........43105
218..........43105
219..........43105
220..........43105
221..........43105
222..........43105
223..........43105
224..........43105
225..........43105
227..........43105
228..........43105
229..........43105
230..........43105
231..........43105
232..........43105
233..........43105
234..........43105
235..........43105
236..........43105
237..........43105
238..........43105
239..........43105
240..........43105
241..........43105
242..........43105
243..........43105
244..........43105
272..........43105
392..........43957
578..........43524
1503..........42987

### 50 CFR

648..........43957

**Proposed Rules:**

17..........43972
223..........43979
224..........43979

## LIST OF PUBLIC LAWS

**Note:** No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

**Last List June 27, 2016**

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